City of Lexington Zoning Ordinance

November 20, 2025

Ordinance 2025-09

ZOA 2025-03

AN ORDINANCE TO AMEND ARTICLE XIII. SIGNS AND ARTICLE XX. DEFINITIONS OF THE CITY OF LEXINGTON ZONING ORDINANCE TO ALLOW CANOPY SIGNS IN THE C-1 AND C-2 ZONING DISTRICTS

WHEREAS, the Planning Commission and Mayor and City Council have determined that regulations such as those to allow canopy signs in appropriate commercial areas should be reviewed; and

WHEREAS, this Ordinance amending the Lexington Zoning Ordinance was properly initiated by petition of a property owner as required by Virginia Code § 15.2-2286(A)(7), for the purposes of the public necessity, convenience, general welfare, and good zoning practice; and

WHEREAS, the applicable provisions of Title 15.2 of the Code of Virginia and § 420-17.2 of the Zoning Ordinance pertaining to the procedure by which amendments to the Zoning Ordinance are to be considered have been followed, including, but not limited to, the holding of a properly advertised and noticed public hearing before the Planning Commission on the proposed amendments, the consideration of the proposed amendments by the Planning Commission with a recommendation forwarded therefrom, and the holding of a properly advertised and noticed public hearing before the City Council on the proposed amendments; and

WHEREAS, the Mayor and City Council have carefully considered the proposed amendments, the recommendation from the Planning Commission, and testimony received at public hearings, and find that the proposed amendments: (i) are reasonable and appropriate given the public necessity, convenience, general welfare and good zoning practice, (ii) serve to promote the health, safety, and general welfare of the inhabitants of the City, (iii) serve the purposes set out in Virginia Code §§ 15.2-2200 and 15.2-2283, and (iv) take into consideration the matters set out in Virginia Code § 15.2-2284.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Mayor and Council of the City of Lexington, Virginia, pursuant to their authority, that Article XIII. Signs and Article XX. Definitions., of Chapter 420 of the Code of the City of Lexington, the Lexington Zoning Ordinance, are amended, reenacted, and recodified as follows:

Section 1.

Article XIII. Signs., §420-13.5. Sign Standards: C-1 Zoning District. of Chapter 420 the Lexington City Code is amended, reenacted, and recodified to add the following as amended § 420-13.5:

Article XIII. Signs

* * *

§420-13.5. Sign Standards: C-1 Zoning District.

* * *

	Maximum Sign Dimensions: C-1 Zoning District		
Sign Type	***Number***	***Area*** *(Sq. Ft.)*	***Height*** *(Ft.)*
Window	*Not limited*	*Lesser of 20% of window area or 6 Sq. Ft.*	*Not limited*
Freestanding	*1 per business*	*9 s.f. per side for buildings < 30 ft frontage; 15 per side for buildings > 30 ft frontage*	*8*
Projecting	*1 per business per street frontage*	*9 s.f. per side for buildings < 30 ft frontage; 15 per side for buildings > 30 ft frontage*	*No less than 8 and 15 ft. max. above grade level*
Wall	*1 per business per street frontage*	*15 s.f.*	*15 ft. max. above grade level*
Awning	*Permitted*	*Letters not more than 6 inches high.*	*No less than 9*
Canopy[3]	*1 per building>40 ft. street frontage*	*Up to 12 inches tall and not more than 7.5 s.f. for buildings up to 3 stories in height; up to 16 inches tall and not more than 10 s.f. for buildings over 3 stories in height*	*15 ft. max. above grade level*
Internally Illuminated	*Not permitted except one neon window sign and one canopy sign*	*3 s.f. for neon (see above for Canopy signs)*	*n/a*
A-Frame	*1 per 30 feet of frontage*	*6 per side*	*4 feet*
Painted	*1 on side or rear wall*	*Shall not exceed 10% of that wall area*	*As per other standards*
Temporary (freestanding, banner, or wall only) [2]	*Not limited*	*8*	*4*
Total sign calculation	*Any business in C-1 shall be limited to displaying no greater than 1 sq. ft. of signage per foot of business frontage*		
Maximum sign allowance	*In no case shall any business display greater than 30 sq. ft. of signage per building street frontage*		

[3]*Open face channel letter only (with or without a diffuser); 800 lumens maximum per channel letter; and 2700K maximum color temperature.*

Section 2.

Article XIII. Signs., §420-13.6. Sign Standards: C-2 Zoning District. of Chapter 420 the Lexington City Code is amended, reenacted, and recodified to add the following as amended § 420-13.6.:

Article XIII. Signs

* * *

§420-13.6. Sign Standards: C-2 Zoning District.

* * *

	Maximum Sign Dimensions: C-2 Zoning District		
Sign Type	***Number***	***Area*** *(Sq. Ft.)*	***Height*** *(Ft.)*
Window	*Not limited*	*Lesser of 20% of window area or 6 Sq. Ft.*	*Not limited*
Freestanding	*1 per street frontage, limit 2 per lot*	*25*	*15*
Projecting	*1 per business per street frontage*	*12*	*No less than 9*
Wall	*1 per business per street frontage*	*1 s.f. for each lineal foot of bldg. frontage; with 32 s.f. min. and 100 s.f. max. allowed*	*15 ft. max. above grade level*
Awning	*Permitted*	*Letters not more than 12 inches high.*	*No less than 9*
Canopy	*1 per business per street frontage*	*20 s.f.*	*15 ft. max. above grade level*
Internally Illuminated	*Permitted*	*n/a*	*n/a*
A-Frame	*1 per 30 feet of frontage*	*6 per side*	*4 feet*
Painted	*1 on side or rear wall*	*Shall not exceed 15% of that wall area*	*As per other standards*
Temporary (freestanding, banner, or wall only)[1]	*Not limited*	*8*	*4*
Total sign calculation	*Any business in C-2 shall be limited to displaying no greater than 2 sq. ft. of signage per foot of business frontage*		
Maximum sign allowance	*In no case shall any business display greater than 100 sq. ft. of signage per building street frontage*		

Section 3.

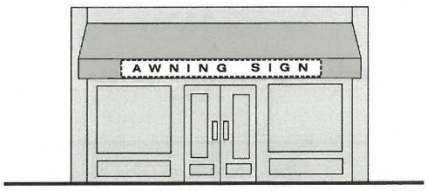
Article XX. Definitions, §420-20.1. *Definitions*. of Chapter 420 of the Lexington City Code is amended, reenacted, and recodified by amending the following term and associated definition, which is to be incorporated alphabetically into § 420-20.1:

CANOPY

An overhead flat roof able to provide shade or shelter above a door from weather conditions that can be supported by stanchions or supported by the building.

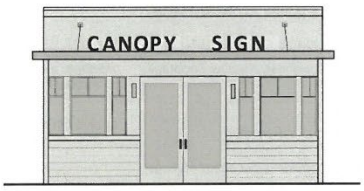
SIGN, AWNING

A sign placed directly on or attached to the valance of an awning.



SIGN, CANOPY.

A sign placed directly on or attached to the top of a canopy. A canopy sign cannot be attached to an awning, vehicle fueling station canopy, or pitched roof structure.



Section 4.

The amendments set out above in Sections 1, 2, and 3 of this Ordinance shall be codified in the Lexington Zoning Ordinance. The Lexington Zoning Ordinance shall remain unamended and in full force and effect except to the extent specifically amended herein.

The recitals to this Ordinance are incorporated by reference and are declared to be findings of the City Council in connection with its decision to adopt this Ordinance.

This Ordinance shall become effective immediately.

Adopted and Effective this the 20th day of November, 2025

Approved: _____
Frank W. Friedman, Mayor

Attest: _____
Katharine L. Beard, Clerk

Chapter 420. ZONING

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Article I. In General

§420-1.1. Short title.

This chapter, the full title of which is "Zoning Ordinance, City of Lexington, Virginia," may, for convenience, be referred to as the "Lexington Zoning Ordinance," and the accompanying map, titled "Zoning Map, City of Lexington, Virginia," may be referred to as the "Lexington Zoning Map."

§420-1.2. Introduction.

The City of Lexington's Comprehensive Plan embodies the community's vision and goals. Two primary mechanisms for achieving the City's land use goals are the zoning and subdivision ordinances. The zoning ordinance sets forth the regulations that legally enforce land use policies and establishes the rules guiding the development of land within the city. Similarly, the subdivision ordinance establishes the rules by which land can be divided, often setting the stage for subsequent development under the zoning regulations. These two land use tools work hand in hand to help achieve the City's vision regarding land use and the overall well-being of the community.

§420-1. 3. Purpose.

A. This ordinance, and any amendments hereto, have been adopted for the general purpose of implementing the Comprehensive Plan of the City of Lexington, and for the purpose of promoting the health, safety, and/or general welfare of the public. To these ends, this ordinance is designed to give reasonable consideration to each of the following purposes:

1. Provide for adequate light, air, convenience of access, and safety from fire, flood, crime, and other dangers;
2. Reduce or prevent congestion in the public streets;
3. Facilitate the creation of a convenient, attractive, and harmonious community;
4. Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
5. Protect against destruction of, or encroachment upon, historic areas;
6. Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic or other dangers;
7. Encourage economic development activities that provide desirable employment and enlarge the tax base;
8. Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the city;
9. Protect surface and groundwater resources.

This chapter shall not be deemed to interfere with or abrogate or annul or otherwise affect, in any manner whatever, any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules,

regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall prevail.

GENERAL REFERENCES

Planning Commission — See Ch. **10,** Art. **I**.
Building construction and maintenance — See Ch. **134**.
Subdivision of land — See **Ch. 360**.

[1]: *Editor's Note: For state law as to municipal zoning generally, see Code of Virginia, § 15.2-2280 et seq. As to preparation and adoption of zoning ordinance, see Code of Virginia, § 15.2-2285. As to purpose of zoning ordinances, see Code of Virginia, § 15.2-2283.*

§420-1.4. Applicability.

The provisions of this ordinance shall apply to all property within the corporation limits of the City of Lexington, Virginia, with the exception that any property held in fee simple ownership by the United States of America or the Commonwealth of Virginia shall not be subject to the provisions contained herein.

§420-1.5. Severability.

Should any Section or any provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

§420-1.6. Establishment of Districts.

For the purposes of this chapter, the area within the incorporated City, as it exists at the time of the enactment of this chapter, is hereby divided into classes of districts, which are established as follows:

General Residential District (R-1)

This district is composed of certain moderate-density residential areas, plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district and to promote and encourage, insofar as is compatible with the intensity of land use, a suitable environment for family life composed of a family population. For this reason, the number of unrelated individuals permitted to constitute a household unit is limited to a maximum of three in this district. Residential structures for both permanent and transient occupancy, including institutions, may be authorized.

Suburban Residential District (R-2)

This district is composed of low-density residential areas containing mostly single-family homes as well as vacant areas where development of a similar nature is most appropriate. The regulations for this district are designed to stabilize and protect the essential characteristics of the district and to promote and encourage a suitable environment for family life composed of a family population. For this reason, the number of unrelated individuals permitted to constitute a household unit is limited to a maximum of three in this district. Residential structures for both permanent and transient occupancy, including institutions, may be authorized.

Multifamily Residential District (R-M)

This district is intended to establish areas where housing of a medium-density capacity can be located. For this reason, a maximum of four unrelated individuals are authorized to constitute a household unit in all types of dwelling units in this district. The regulations of this district provide that multiple-family dwellings, such as apartment houses, townhouses, garden apartments, etc., may be developed in appropriate areas, well located with respect to major roads, shopping facilities and employment centers. Such developments are allowed in a manner which provides a suitable and comfortable living environment for people of all ages. Community facilities needed to support these developments are permitted. While these developments are of a medium density, they tend to be small in scale and therefore would be compatible with adjacent land uses.

Residential Light Commercial (R-LC)

This district is established to provide areas where housing can be located adjacent to or in conjunction with light commercial operations compatible in nature with residential land use. For this reason, a maximum of four unrelated individuals are authorized to constitute a household unit in all types of dwelling units in this district. The regulations applicable to this district provide that single-family dwellings and multiple-family dwellings, such as apartment houses, townhouses, garden apartments, etc., may be developed in appropriate areas well located with respect to major roads, shopping facilities and employment centers. Community facilities needed to support these developments are permitted. Small manufacturing and light commercial facilities are allowed in a manner which will provide for a suitable and comfortable living environment for people of all ages. Artistic endeavors are encouraged in this district as are the establishment of live-work dwellings. These developments and light commercial and manufacturing facilities are of medium density, tending to be small in scale. They are harmonious with and complementary to adjacent land uses.

Central Business District (C-1)

The purposes of this district are to enhance the utility, safety and attractiveness of the historic downtown business area for residents and visitors alike; to encourage the continuation of a compact, efficient and attractive retail facade and arrangement of buildings in the downtown area; and to minimize traffic congestion and its effects in the downtown area, all of which purposes are served by encouraging a compact and convenient arrangement of retail stores, offices, compatible service uses and the use of community parking areas and by discouraging those uses which are incompatible with permitted uses or which would tend to be disruptive of traffic and pedestrian flow and historic building patterns. Furthermore, the historic area regulations of Article XVII of this chapter apply to the Central Business District as a means of protecting this important element of the City's historic and architectural heritage.

General Commercial District (C-2)

The primary purpose of this district is to provide outlying areas for heavier businesses and light industrial uses. Businesses will be conducted in completely enclosed structures. Noxious fumes, excessive noise and other environmental pollutants will not be permitted regardless of the nature of the business.

Entrance Corridor Overlay District (EC)

The purpose of this district is to protect and enhance the City's attractiveness; protect the City's scenic, historic, architectural and cultural resources; support and stimulate development which is appropriate and complimentary to the numerous properties of historic, architectural and cultural significance throughout the City; protect and enhance the architectural and scenic character of significant access routes to the City's historic downtown; promote orderly and attractive development along these significant access routes; and ensure that development within this district is compatible with these resources through architectural control of development.

Institutional Overlay District (I-1)

The purpose of this district is to provide for orderly development of major institutions such as colleges, universities and medical campuses in accord with approved master plans for these institutions, with minimum procedural delay, and at the same time to ensure coordination of institutional development with surrounding land uses and the overall fabric of the City, the City's Comprehensive Plan and applicable City codes and ordinances.

Historic Downtown Preservation District

The purposes and objectives of this district is to:

A. Bring attention to the architectural excellence and historic importance of certain buildings, structures, places and areas in the City.

B. Improve the land values, business climate, environmental quality, facilities and services of the City, while keeping the unique and distinctive character of certain sections.

C. Foster a more favorable climate in the City, especially in the Central Business District, for the development of tourism as a basic and vital industry in the community.

D. Encourage the development of off-street parking in the Central Business District for the convenience of shoppers, City and county employees and tourists.

E. To assist private organizations within the City in furthering a deeper appreciation of the rich cultural heritage of the community.

F. To promote a broad program, within the scope of this article, for preserving, rehabilitating and maintaining architecturally fine structures, monuments, walkways, places and areas within the entire City.

Residential Historic Neighborhood District

The purposes and objective of this district is to:

A. Bring attention to the architectural excellence and historic importance of certain buildings, structures, places and residential areas in the City.

B. Preserve and improve the unique and distinctive character of certain residential sections.

C. Enhance the quality of life for residents by preserving the historic resources of the City.

D. Maintain and improve property values, encourage sound stewardship and be minimally intrusive on property owners.

E. Assist private organizations within the City in furthering a deeper appreciation of the rich cultural and historic heritage of the community.

Planned Unit Development (PUD)

The planned unit development (PUD) concept encourages and permits variation in residential developments, clustering of buildings, common open space, and a mix of building types and land uses. Its intent is to permit greater flexibility in order to allow more creative, innovative, imaginative, and, where possible, environmentally sensitive development than may be possible in the other zoning districts. A PUD is intended to allow the use of diversified development techniques for larger parcels. Planned Unit Developments shall be developed with appropriate site design, landscaping, and buffering practices to ensure compatibility with surrounding developed properties.

General Floodplain District (FP)

The purpose of this district is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

A. Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.

B. Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding.

C. Requiring all those uses, activities and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage.

D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Parks and Open Space District (P-OS)

The purpose of this district is to preserve and enhance public park and recreational areas and open space, to provide opportunities for recreation, preserve scenic qualities, protect sensitive environmental areas and provide pedestrian and bicycle pathways.

§420-1.7. Zoning Map.

The locations and boundaries of districts established in the City shall be shown on a map titled "Zoning Map, City of Lexington, Virginia." The same map may be amended subsequent to the adoption thereof. The Zoning Map, as well as all notations, dimensions, designations, references and other data shown thereon, is made a part of these regulations to the same extent as if the information set forth on such map were fully described and incorporated herein. A certified official copy of the Zoning Map, with all map amendments indicated thereon, shall be on file in the office of the City Zoning Administrator.

[2]: *Editor's Note: For state law as to preparation and adoption of zoning map and amendments thereto, see Code of Virginia, § 15.2-2285.*

§420-1.8. Determination of uncertain boundaries.

Where uncertainty exists as to the boundaries of the districts established in **§ 420-1.6** and as shown on the Zoning Map, the following rules shall apply:

A. In a case where a boundary line is located within a street or alley or a navigable or non-navigable stream, it shall be deemed to be in the center of the street or alley right-of-way or stream.

B. In a case where a boundary line approximately follows a lot line or the City corporate line and is not more than 10 feet in distance therefrom, such lot line or City corporate line shall be the boundary.

C. In a case of unsubdivided property or where a zoning line divides a lot, the location of any such line shall be controlled by the dimension stated on the Zoning Map.

§420-1.9. Boundary Adjustments.

Any area incorporated into the City after the effective date of this chapter shall immediately, upon the effective date of the action, be automatically classified as a General Residential District until a zoning plan for the area shall be adopted by the Council. The Planning Commission shall prepare and present to the Council a zoning plan for the new area within six months.

§420-1.10. Uses generally.

A. Conformance with chapter. No building or structure shall be erected, and no existing building shall be moved, altered, added to or enlarged, nor shall any land, building or structure be used, occupied, designed or arranged to be used for any purpose or in any manner not in conformance with the regulations of this chapter.

B. Uses not specifically listed prohibited. For the purposes of this chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited.

C. Lots. Every building hereafter erected shall be located on a lot as herein defined, and, except as herein provided, there shall be not more than one building on one lot.

D. Dwellings. A dwelling of any type erected, altered or maintained as such in a less restricted district than that for which the regulations governing such dwelling are specified shall comply with the regulations governing the use, area, building height, yard and other requirements of the respective type of dwelling as if such dwelling were erected, altered or maintained in the district in which the regulations apply.

§420-1.11. Conditional Use Permits.

A. Purpose. To provide for certain uses that either have unusual characteristics or have characteristics that are sufficiently different from those of their surroundings or are generally of a public or semipublic character, conditional use permits are authorized by this chapter in certain circumstances and upon the exercise of planning judgment respecting location, site plan and other factors.

B. Public notice.

1. In accordance with §15.2-2204 of the *Code of Virginia*, the Planning Commission shall not recommend nor shall the City Council approve any conditional use until public hearings have been held by both the Planning Commission and the City Council. Notice of public hearings shall be published once a week for two successive weeks in some newspaper

published or having general circulation in the City, provided that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of a hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the proposed plans, ordinances or amendments may be examined. The Planning Commission and City Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth above need be given only by the City Council. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

2. Planning staff shall give written notice to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice shall give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the public hearing. The list of property owners and the content of the notice shall be approved by the Zoning Administrator prior to mailing.

3. Planning staff shall place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.

C. Conditions of issuance.

1. Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of this chapter, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:

   i. The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.

   ii. The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.

   iii. The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.

   iv. Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.

2. Where the provisions of this chapter require conditional use permits for certain parking lots, drive-in, and/or drive-through facilities in the C or C-2 Zoning Districts, due consideration shall be given, in addition to the findings contained in Subsection C(1) of this section, to the purposes of the districts and specifically to the effect of such facilities on the use of off-street circulation ways, including use of alleys; on the location of access points and relationship to traffic and pedestrian flow; and on the adequacy of off-street

waiting area at drive- in facilities. Additionally, in the review of such facilities in the C-1 Zoning District, due consideration shall be given to the effect of such facilities on the historic pattern of buildings and on the maintenance of a compact, efficient and attractive retail facade and arrangement of buildings.

[Amended 5-2-2013 by Ord. No. 2013-02]

3. In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C (1) and (2), as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

D. Commencement of construction. Construction or operation shall commence within one year of the date of issuance or the conditional use permit shall become void.

E. Reapplication. No reapplication for a conditional use permit for the same or substantially the same application shall be considered by the governing body within a period of one year from its last consideration. This provision, however, shall not impair the right of the governing body to propose a conditional use permit on its own motion.

F. Should the use approved by the conditional use permit cease for any twenty-four-month period during the life of the permit, the conditional use permit shall become void.

Article II. Review and Approval Procedures

§420-2.1. Compliance required.

All departments, officials and public employees of this jurisdiction who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter.

§420-2.2. Zoning Permits.

A. Required. Buildings or structures shall be started, repaired, reconstructed, enlarged or altered only after a zoning permit has been obtained from the Zoning Administrator.

B. Review by Planning Commission. The Zoning Administrator may request a review by the Planning Commission of a request for a zoning permit prior to the issuance of such zoning permit, in order to determine if the contemplated use is in accordance with the district for which the permit will apply.

C. Application; fee; scale drawing. Each application for a zoning permit shall be accompanied by a fee established by City Council and by three copies of a scale drawing which shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the location of any rights-of-way of any street or highway adjoining such parcel of land, the location of any required building lines, the exact sizes and locations on the lot of the structures and accessory structures then existing, the lines within which the proposed building or structure shall be erected, the existing and intended use of each structure or part thereof, and such other information, with regard to the lot and neighboring lots, as may be necessary to determine and provide for the enforcement of this chapter.

D. Issuance. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the Zoning Administrator. One copy of the drawing shall be returned to the applicant with the permit.

§420-2.3. Incentive Zoning.

A. Procedure for Incentive Zoning

1. Any prospective developer shall negotiate the terms of an incentive zoning agreement with the Zoning Administrator. The Zoning Administrator shall record the outcome of these negotiations in writing, and present this proposal, along with any supporting documents, to the Planning Commission in order to secure its recommendation.

2. The Planning Commission may amend the terms presented in the proposal as it sees fit, and shall recommend the proposal (along with any amendments to it) to the City Council by a majority vote of those present and voting at a duly called and noticed meeting. The Planning Commission shall have 30 days from the date that it receives an incentive zoning proposal from the Zoning Administrator to recommend or reject it. If the Planning Commission fails to act, the proposal shall be deemed recommended and transmitted to the City Council for action.

3. If a proposal is recommended or deemed recommended, the City Council shall either approve or reject the proposal as written by a majority vote of council members present and voting at a meeting of the City Council that has been duly called and noticed.

B. Notice and Public Hearing Requirement. The Planning Commission shall not recommend nor shall the City Council adopt any proposal under this section unless it complies with the notice and public hearing requirements of **§ 420-2.7**.

C. Enforcement Upon Approval by City Council. The Zoning Administrator shall be vested with all necessary authority on behalf of the City to administer and enforce any incentive zoning proposal approved by the City Council.

§420-2.4. Site plans required; exceptions.

Pursuant to Code of Virginia, §15.2-2286.A.8, no building permit shall be issued involving construction or exterior modifications to a building until a site plan has been issued in accordance with Article **II**. Site plans are required and shall be submitted for all new structures, all renovated structures and all additions to existing structures, with the following exceptions:

A. Single-family dwellings.

B. Two-family dwellings

§420-2.5. Contents of site plans.

For relatively minor developments, requirements of this subsection may be waived by the Zoning Administrator or his authorized agent provided that the intent of this chapter may not be circumvented. Otherwise, every site plan prepared as hereinafter provided and submitted in accordance with this article shall contain the following information:

A. A boundary survey of the tract.

B. A certificate, signed by the surveyor or engineer, setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chain of title.

C. All existing and proposed streets and easements, their names, numbers and widths, existing and proposed utilities, owners, zoning and present use of adjoining property.

D. Location, type and size of vehicular entrances to the site.

E. Locations, types, sizes and heights of fencing, retaining walls and screen planting where required.

F. All off-street parking, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required in accordance with Article **XII**.

G. Number of floors, floor area, height and location of each building and proposed general use for each building. If a multifamily residential building, the number, size and type of dwelling units.

H. All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made.

I. Provisions for the adequate disposition of natural and storm water, indicating locations, sizes, types and grades of ditches, catch basins and pipes and connections to existing drainage system.

J. Existing topography, with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than 2%, either one-foot contours or spot elevations where necessary, but not more than 50 feet apart in both directions.

K. Proposed finished grading by contours, supplemented where necessary by spot elevations.

L. A landscape plan if requested by the Zoning Administrator, his authorized agent or the Planning Commission.

§420-2.6. Preparation and submission.

A. Site plans, or any portion thereof, involving engineering, architecture, landscape architecture or land surveying shall be prepared and certified respectively by an engineer, architect, landscape architect or land surveyor duly authorized by the state to practice as such.

B. Site plans shall be prepared on a scale of one inch equals 50 feet or larger.

C. A clear, legible, blue or black line copy of the site plan shall be submitted to the Zoning Administrator. The Zoning Administrator shall be responsible for checking the site plan for general completeness and compliance with such administrative requirements as may be established prior to routing copies thereof for review.

§420-2.7. Approval; issuance of permit.

All site plans which are appropriately submitted and which conform to the standards and requirements set forth in this article shall be forwarded to the Planning Commission for approval. In compliance with Code of Virginia §15.2-2261 an approved final site plan shall be valid for a period of not less than five years from the date of approval.

A. Public notice.

1. Planning staff shall give written notice to those persons who own property any portion of which abuts the subject property and all property which is across the street from any portion of the subject property as determined by the City's real property tax records. This notice shall give the date, time and place of the Planning Commission meeting at which the site plan is being reviewed, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the meeting of the Planning Commission at which the site plan is first considered. The list of property owners and the contents of the notice shall be approved by the Zoning Administrator prior to mailing.

2. Planning staff shall also place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.

B. Pursuant to Code of Virginia, §15.2-2259, the site plan shall be approved within 60 days after it has been officially submitted for approval if it is found to be adequate with respect to:

1. Locations and design of vehicular entrances and exits in relation to streets giving access to the site and in relation to pedestrian traffic.

2. Locations and adequacy of automobile parking areas.

3. Adequate provision for traffic circulation and control within the site and provision for access to adjoining property.

4. Compliance with the requirements for setback and screening.

5. Adequacy of drainage, water supply, fire protection and sanitary sewer facilities.

6. Compliance with applicable established design criteria, construction standards and specifications for all improvements.

7. Approval by the City Health Officer or his agents if septic tank and other sewage disposal facilities other than sanitary sewers are involved.

8. Adequacy of proposed landscaping for softening the harsh visual effects of parking lots and for providing screening between the development and the street and surrounding lots.

C. Approval of a site plan submitted under the provisions of this article shall expire five years after the date of such approval unless building permits have been obtained for construction in accordance therewith.

D. No permit shall be issued for any structure in any area covered by the site plan that is required under the provisions of this article except in conformity with such site plan which has been duly approved.

§420-2.8. Performance guarantees.

A. As a condition to the approval of a final site plan, the owner or developer shall be required to guarantee completion of the public and other site-related improvements associated with the development prior to approval of the final plat.

B. The following performance guarantees shall be required as applicable to the site:

1. Any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline or any improvements dedicated for public use;

2. Erosion and sediment control measures and stormwater management facilities;

3. Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, and paving as required by this chapter but not completed prior to issuance of a certificate of occupancy.

4. Other site-related improvements required by local or state ordinance.

C. Performance guarantees shall only include the cost of any facility or improvement shown or described on the approved plat or plan of the project for which such guarantee is being furnished.

D. The required guarantee shall be provided in an amount equivalent to the total estimated cost of construction based on unit prices for new public or private sector construction in the City. The owner or developer shall submit a written itemized estimate of the total cost of construction, certified by a professional as being accurate, as part of the development application and subject to City approval.

E. The following forms of guarantees may be used to satisfy the requirements of this section. The owner or developer may furnish to the City, subject to the approval of the Zoning Administrator:

1. a certified check or cash escrow in the amount of the estimated costs of construction;

2. a personal, corporate or property bond with surety in an amount sufficient for the construction of the proposed facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount;

3. a bank or saving institution's letter of credit on certain designated fund.

F. All performance guarantees shall provide that such bond, letter of credit, or other agreement shall not be terminated, canceled, or modified without at least 30 days' prior written notice by certified mail to the Administrator.

G. All performance guarantees shall provide for the completion of construction of all facilities within a time determined by the Administrator.

H. Extensions of time. If guaranteed facilities are not completed in a timely manner acceptable to the City, the Administrator may proceed via the provisions for default, below, or grant an extension of time for the completion of facilities, not to exceed one year provided:

1. All surety consents have been acquired and approved by the City;
2. The owner has submitted an acceptable schedule for completion; and
3. Inspection of existing physical improvements is found to be satisfactory.

I. Partial release of performance guarantee.

1. Upon completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request for partial release of such guarantee.
2. The Administrator shall act upon each written request for a periodic partial release within 30 days of receipt. The Administrator may inspect the facilities for conformance to the terms and conditions of the approved plan and specification for the facility.
3. If no action is taken by the Administrator during the 30-day period, the request for partial release shall be deemed approved.
4. The Administrator shall have the authority to require that each request be accompanied by the certification of a professional licensed to make such determination that the required improvements are partially or finally completed in accordance with the approved plans and specifications.

J. Final release of performance guarantee.

1. Upon final completion of the facilities, the applicant may file a written request for final release of the performance guarantee. The Administrator may inspect the facilities for conformance with the terms and conditions of the approved plan and specifications for the facilities subject to the performance guarantee.
2. Landscaping performance guarantees. Once 90 percent of the landscaping has been installed, inspected and approved by the Administrator, 90 percent of the performance guarantee shall be released. The remaining ten percent (10%) shall be held in escrow for a minimum of two years. The final ten percent shall be released at the end of the two-year period upon inspection and approval by the Administrator.
3. Within 30 days of the receipt of the written request, the Administrator shall either accept the request and release the remaining guarantee or notify the applicant of specific defects or deficiencies and suggest corrective measures.
4. If the Administrator fails to act within the 30-day period, the applicant may make an additional request in writing for final release, sent by certified mail to the City Manager. The City Manager shall act within 10 working days of receipt of this request. If no action

is taken, the request shall be deemed approved and the final release granted to the applicant.

5. Final release of any performance guarantee for public facilities shall not occur prior to receipt of as-built plans demonstrating compliance with all City requirements.

6. The Administrator shall have the authority to require the request be accompanied by the certification of a professional licensed to make such determination that the required improvements are partially or finally completed in accordance with the approved plans and specifications.

K. Default. In the event of default in the construction of guaranteed facilities, the Administrator is authorized to take such actions as may be required to protect the City and the public, including, but not limited to:

1. Require recalculation and reassessment of security;

2. Draw or make demand on the owner or developer's security;

3. Contract for the completion of the work;

4. Enter the property for purposes of completing the work; and

5. Bring an action at law against the owner, developer, or surety.

L. Whenever a performance guarantee is required by the terms of conditional rezoning, the Administrator shall employ the procedures provided in this section to establish the amount and form of the guarantee in accordance with this section.

M. As-built plan requirements.

1. All entities who construct public water or sewer lines, storm drainage systems, bike paths, sidewalks, trails or streets must submit an "as-built" set of construction drawings for approval as a part of the City's acceptance process.

2. Entities constructing any stormwater management facilities must submit a set of "as-built" construction drawings.

3. The initial submittal shall be three sets of "red-lined" marked up prints which should be delivered to City Hall. The submittal shall also include recorded copies of any public easements associated with the project.

4. The as-built drawings shall clearly show any changes or variations from the approved design. Horizontal variations greater than one foot should be shown dimensionally. Vertical elevation variations greater than two feet shall be provided for all shown design elevations. A benchmark elevation and benchmark description and location shall be provided on each plan sheet.

5. As-builts for a stormwater management facility shall also include the following:

i. Length, width, slope information and depth or contours (one-foot intervals) of the pond area along with a verification of the original design volume.

ii. A benchmark on the riser, inlet headwall, or other approved location.

iii. Revised design computations verifying the functionality of the facility. Computations shall be submitted, along with an additional paper copy of the as-built plans.

iv. The grading/storage volumes must be approved by Administrator prior to landscaping/planting. All plantings must be added to the as-built plans after plant installation. As-built plans will not be approved without required plantings. If as-built data shows that the constructed facility varies from the original design storage elevations by greater than or equal to 1%, the variations will have to be corrected (regraded) prior to submission for review unless storage is verified. All constructed features not previously approved on the original construction drawings will need to be modified to adhere to the approved plans or be approved after the fact.

v. All as-built information shall be blocked in and shown on the original construction drawings.

vi. The as-built shall be signed and sealed by a professional licensed to make such certification.

6. Once the City has determined that the as-built information is satisfactorily shown, the design professional will be notified to submit plans for as-built approval. The as-built information shall preferably be shown on the original construction drawings (i.e., the original plans with the permit approval stamp and design professional seal). Placing as-built information upon a scanned image or other reproduction of the original construction drawings may be acceptable so long as the quality, integrity, and legibility of the original drawings are substantially preserved without undue compromise. The as-built plat set shall be submitted for signature and shall contain the same red-lined information as approved in the as-built review. A final, signed digital as-built submission shall be submitted along with one hard copy.

§420-2.9. Revisions and vacations.

Any site plan may be revised in the same manner as originally approved.

Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated according to either of two methods described in § 15.2-2270.

§420-2.10. Certificates of occupancy.

A. Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the Administrator. Such a permit shall state that the building or the proposed use of land complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, reviewing, changing or extending a nonconforming use.

B. No such occupancy, use, or change in use shall take place until a certificate of occupancy has been issued by the Zoning Administrator. Such certificate shall certify that the building or the proposed use, or the use of the land, complies with the provisions of this ordinance. Upon application of the owner or an authorized agent, the Zoning Administrator shall issue the certificate of zoning compliance for any building, structure or lot; provided, that the Administrator finds such building,

structure or lot is in conformity with all applicable provisions of this ordinance, and all other applicable City laws.

C. The City shall issue or deny any application for a certificate of occupancy within seven (7) days of an application being filed. If denied, the City shall advise the owner or owner's agent the reasons for the denial, and the specific actions required on the part of the owner before the certificate of occupancy can be issued.

§420-2.11. Appeals.

Any person aggrieved by any decision of the Zoning Administrator may, within 30 days of such decision, appeal to the City Board of Zoning Appeals. Any applicant or adjoining property owner who is aggrieved by the decision of the Board of Zoning Appeals may appeal to and have a determination made by the Circuit Court.

Article III. Use Matrix.

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
B = By-right uses, C = Conditional uses								
Use Types								
Residential								
Accessory Dwelling Unit - Attached			B	B	B	B	B	
Accessory Dwelling Unit - Detached			C	C	C	C		
Chickens	B[1]	B[1]	B[1]	B[1]	B[1]	B[1]	B[1]	B[1]
Cottage Housing Development			C	C	C	C		
Dish Antennas (not meeting use and design Standards in §420-11.1.3)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B[2], C[3]	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		
Civic								
Cemetery		C						
Civic use	B	B	C	C	C	B	B	B
Club						C	B	B
Cultural services						B	B	B

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Educational facility, College/University			C	C	C	C	C	C
Educational facility, Primary/Secondary			C	C	C	B		
Emergency shelter						C	C	C
Public assembly			C	C	C		C	C
Public Park & Recreational Area		B						
Public maintenance and service facility			C					B
Public recreation assembly	C		C		C	C	C	C
Recycling center								C
Refuse collection site								C
Religious assembly			C	C	C	C	B	C
Shelter							B	B
Commercial								
Automobile rental/leasing								C
Automobile repair service							C	B
Automobile sales								C
Bed-and-breakfast			C[4]	C[5]	C	B	B	B
Brewery or Distillery							C	B
Business or trade school							C	B
Business support service						C	C	B
Car wash								C
Catering, Commercial (off-premises)							B	B
Clinic						B	B	B
Commercial indoor amusement						C	B	B
Commercial indoor entertainment						C	B	B

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Commercial indoor sports and recreation								B
Commercial outdoor entertainment								C
Commercial outdoor sports and recreation	B							C
Commercial vehicle repair service								C
Communications Service							B	B
Construction sales and service								B
Construction yard								C
Consumer repair service						B	B	B
Custom manufacturing						B	B	B
Day care center			C	C	C	B	C	B
Entertainment Establishment, Adult								B
Equipment sales and rental								C
Family home day care			C	C	C	B	B	B
Farmer's Market	B	C				B	B	B
Financial institution							B	B
Funeral home								B
Garden center						B		B
Greenhouse, commercial						C		B
Guidance Services						B	B	B
Halfway house							C	C
Home for adults			C	C	C			B
Home occupation, Class A			B	B	B	B		
Home occupation, Class B						C		
Hospital						B	C	C

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Hotel							B	B
Kennel								C
Laundry							B	B
Micro-Brewery							B	B
Micro-Distillery							B	B
Mini-warehouse								C
Nursing home						B		B
Office, general						B	B	B
Office, medical						B	B	B
Off-Street Remote Parking (per §420-12.3)						C	C	C
Outdoor Display								C
Pawn Shop								B
Personal improvement services						B	B	B
Personal services						B	B	B
Restaurant, drive-in								B
Restaurant, general							B	B
Restaurant, mobile		B[6]				B	B	B
Restaurant, small						C	B	B
Shooting range, indoor								B
Shopping Center								B
Short Term Rental			B	B	B	B	B	
Specialty Food Shop						C	B	B
Specialty Shop						B	B	B
Store, Adult						C	B	B
Store, general							B	B
Store, grocery							B	B

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Store, liquor							B	B
Store, neighborhood convenience						C	B	B
Studio, Fine Arts						B	B	B
Tattoo Parlor and/or Body Piercing Salon							C	C
Vehicle Fueling Station							C	B
Veterinary hospital/clinic								B
Wholesale sales								B
Winery							B	B
Industrial								
Industrial, light								B
Laboratory								B
Research and development						C	B	B
Salvage and scrap service								C
Sawmill, temporary	B							
Warehousing and distribution								C
Miscellaneous								
Amateur radio tower			B	B		B	B	B
Building, Portable	B	B	B[7]	B[7]	B[7]	C[8]	C[8]	C[8]
Communication tower (Standard Process Project)		C	C	C	C	C		C
Communication tower (Admin. Review Eligible Project)	B[9]	B[9]	B[9]	B[9]	B[9]	B[9]	B[9]	B[9]
Cemetery, private						C		
Garage, private			B	B		B	C	C

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential-Light Commercial	C-1, Central Business District	C-2, General Commercial District
Parking facility		B			C	C	C	C
Recreation facility, private	B	C	B	B	B	B		
Utility service, major			C	C				C
Utility service, minor			B	B		B	B	B

[1] the keeping of chickens is an accessory use to a single-family, two-family, or multifamily dwelling and permitted if requirements of 420-11.1.2 are met

[2] Second floor and higher

[3] First floor

[4] Bed & Breakfasts only allowed along Main, Washington, and Nelson Streets

[5] Bed & Breakfasts only allowed along S. Main Street

[6] Mobile Restaurants only allowed in Jordan's Point Park, Richardson Park and Brewbaker Field Sports Complex and with a written agreement with the City of Lexington.

[7] accessory building is by right

[8] temporary construction office and storage sheds are by-right

[9] permitted if requirements of 420-11.5.4 are met

Article IV. Zoning District Regulations

§420-4.1. Building height.

No building or structure shall be erected, reconstructed or structurally altered to exceed in height the limit designated in this chapter for the district in which such building is located.

§420-4.2. Areas and yards.

A. No building or structure shall be erected, nor shall any existing building or structure be altered, enlarged or rebuilt, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the district in which such building, structure or open space is located.

B. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter which is considered as a yard or open space on one lot shall be considered as a yard or open space for a building on any other lot.

C. All yards and courts required by this chapter shall be open and unobstructed to the sky with the following authorized encroachments:

1. Fences, Walls: Fences and walls may be permitted in any required yard, provided that no fence or wall along any yard shall be over seven feet in height in residential zoning districts or eight feet in height in commercial zoning districts. The aforesaid provision notwithstanding, no fence, hedge, wall or barricade of any kind shall be constructed on or between abutting properties in commercial districts, both of which are utilized for off-street customer parking and/or traffic flow, unless it is determined by the Zoning Administrator that such fence, hedge, wall or barricade will promote the general welfare of the public and decrease traffic hazards in the general vicinity.
2. Handicapped accessible ramps. Handicapped accessible ramps provided that handicapped accessible ramps are not covered and are not within five (5) feet of any property line.
3. Porches, Balconies, Decks, Stoops, Landings. Unenclosed porches, balconies, decks, stoops or landings may project not more than five feet beyond the front, side and rear walls of a building into the minimum front, side or rear yard setback for the district and shall not be closer than five feet from any lot line. “Unenclosed” shall mean no side enclosure, other than railings, that is more than 18 inches in height, exclusive of screens. Any two story or enclosed porch shall be considered a part of the building in the determination of the required setback.
4. Projecting Horizontal Architectural Features. Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves, roof overhangs, bay windows or canopies may project not more than three feet into any required setback, but no closer than five feet to any lot line. A bay window which is not more than ten feet wide may extend three feet into a required yard.
5. Steps. Uncovered steps may encroach into a required yard.

§420-4.3. Street frontage.

No lot shall be used in whole or in part for dwelling purposes unless such lot abuts upon a street in accordance with the minimum frontage requirements of this chapter. No lot or parcel of land abutting the

terminus of a public street shall be deemed to comply with street frontage requirements unless such lot abuts an approved, permanent cul-de-sac.

§420-4.4. Widening of streets and highways.

Whenever there shall be plans in existence, approved by either the State Department of Highways and Transportation or by the governing body, for the widening of any street or highway, the Zoning Administrator may require additional front yard setback for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

§420-4.5. Visibility at intersections in residential districts.

On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of 2 1/2 and 10 feet above the center lines of such corner lots and a line joining points along such street lines 50 feet from the point of the intersection.

§420-4.6. Lot Requirements.

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
R-1	8,000 sq. ft.; 12,000 sq. ft. for two-family dwellings	60 feet; 80 feet for two-family dwellings	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet; 25 feet for detached accessory dwelling units[1]	15 feet	10 feet	25 feet for main buildings; 5 feet for accessory buildings; Detached accessory dwelling units – 15 feet, or 10 feet when abutting an alley[1]
R-2	15,000 sq. ft.	80 feet	35 feet; up to 45 feet w/30 foot side yard plus 1 foot for each additional foot over 35 feet; 25 feet for detached accessory dwelling units[1]	25 feet	15 feet	25 feet for main buildings; 5 feet for accessory buildings; Detached accessory dwelling units – 20 feet, or 10 feet when abutting an alley[1]
R-M	8,000 sq. ft.; Two-family dwellings-12,000 sq. ft.; Multi-family-10,000 sq. ft. plus 1,500 sq. ft. for each unit in excess of 4; Townhouses - 2,400 sq. ft. per unit	60 feet; Two-family dwellings-80 feet; Townhouses-20 feet each unit; Multi-family-100 feet	45 feet; 25 feet for detached accessory dwelling units[1]	25 feet	10 feet; 20 feet for multi-family	25 feet; 30 feet for multi-family
R-LC	Residential use: 8,000 sq. ft.; Two-family dwellings-12,000 sq. ft.; Multi-family-10,000 sq. ft. plus 1,500 sq. ft. for each unit in excess of 4; Townhouses - 2,400 sq. ft. per unit; Non-residential: 8,000 s.f.	Residential uses: 60 feet; Two-family dwellings-80 feet; Townhouses-20 feet each unit; Multi-family-100 feet; Non-residential: 60 feet	35 feet, except dwellings may be increased up to 45 feet, provided that each side yard is 20 feet, plus at least one foot for each additional foot of building height over 35 feet; 25 feet for detached accessory dwelling units[1]	25 feet	Residential uses: 10 feet, or 20 feet for multi-family Non-residential: 10 feet	Residential uses: 25 feet, or 30 feet for multi-family Non-residential: 25 feet

Zoning District	Lot Area	Lot Width	Building Height	Front Yard	Side Yard	Rear Yard
C-1	None	None	45 feet; public and governmental buildings up to 60 feet w/CUP	None	10 feet when abutting a residential district	10 feet when abutting a residential district
C-2	None	None	45 feet	30 feet	30 feet when abutting a residential district	30 feet when abutting a residential district
PD-MU	3 acres		see §420-5.10	for setbacks see §420-5.9		
POS	0 sq. ft.	0 feet	15 feet; 35 feet if ≥ 10 feet from a property line	5 feet [1]	5 feet [1]	5 feet [1]

[1]Standards for accessory dwelling units located in legal nonconforming accessory buildings can be found at §240-11.1.8.

[2]Structures located in designated cemeteries and designed to contain human remains, such as but not limited to, mausoleums, columbaria, crypts, and niche walls, are not subject to P-OS yard setback regulations.

Article V. Planned Development – Mixed Use District (PD-MU)

§420-5.1. Intent and purpose.

The purpose of the Planned Development – Mixed Use District is to promote areas appropriate for office, retail, and residential uses, designed in a unified and cohesive manner in order to create an attractive environment in which to live, work, and recreate. Two or more uses shall be integrated into a mixed use project. The district is intended to be established in areas suitable for redevelopment and identified within the Comprehensive Plan as Opportunity Areas numbered 3 and 5, along E. Nelson Street and S. Main Street respectively, and to provide a process and design criteria that can be used to transition from established uses while accommodating new growth and evolving market trends. Development proposals should incorporate high quality architectural design and provide gradual transitions to surrounding land uses. The Opportunity Areas designated along E. Nelson and S. Main Streets are also designated as Entrance Corridors and development rezoned to PD-MU should protect and enhance the City's attractiveness in compliance with Article VI of this chapter. Vertical combination of uses is encouraged where appropriate and a PD-MU is expected to produce a better design than can be produced through traditional zoning districts.

§420-5.2. Character of development.

The goal of a Planned Development – Mixed Use District is to encourage a development form and character that enhances the Lexington community's sense of place and character and is different from conventional suburban development. Lexington's Comprehensive Plan includes Design Principles for Opportunity Areas and for Mixed Use Neighborhoods that should inform the character and development of the proposed project. A proposal for a Planned Development – Mixed Use District must demonstrate consideration of the following characteristics, and in those instances where a development cannot include a characteristic, the PD-MU Narrative must provide written justification why the characteristic cannot be incorporated:

A. Pedestrian orientation;

B. Neighborhood friendly streets and paths;

C. Interconnected streets and transportation networks;

D. Parks and open space;

E. Neighborhood centers;

F. Buildings and spaces of appropriate scale;

G. Appropriately screened parking;

H. Electric vehicle and bicycle parking;

I. Mixture of uses and use types;

J. Mixture of housing types and affordability;

K. Environmentally sensitive design, such as energy efficiency of buildings (May include photovoltaic power generation & storage, low carbon building materials, energy efficient mechanicals, and a thermally efficient building envelope), and green infrastructure elements, such as low impact development measures for stormwater, encouragement of public accessibility to parks and open spaces in any new development;

L. Clear boundaries with any surrounding rural areas; and

M. Shade trees planted in a large enough pervious area on the property that they will survive to maturity.

An application is not necessarily required to possess every characteristic of the Planned Development – Mixed Use District as delineated in this subsection in order to be approved. The size of the proposed district, its integration with surrounding districts, or other similar factors may prevent the application from possessing every characteristic.

§420-5.3. Permitted uses- generally.

In the Planned Development – Mixed Use District, all uses permitted by-right in the residential, commercial, civic, miscellaneous, and industrial districts may be permitted. Additional uses specifically enumerated in the final master plan may be permitted by-right at the discretion of the City. Specific uses may also be excluded.

§420-5.4. Permitted uses- with conditional use permit.

One or more uses permitted by conditional use permit in any zoning districts may be permitted in the Planned Development – Mixed Use District if documented in the PD-MU master plan. Any use desired but not documented in the approved PD-MU master plan requires an application to amend the PD-MU master plan.

§420-5.5. Mixture of uses.

A variety of housing types and non-residential uses is strongly encouraged. The mixture of uses shall be based upon the uses, goals and strategies recommended in the Comprehensive Plan. This mixture may be obtained with different uses in different buildings or a mixture of uses within the same building.

§420-5.6. Minimum area for a Planned Development – Mixed Use District.

The minimum area required for the establishment of a Planned Development – Mixed Use District shall be three (3) acres.

Additional area may be added to an established Planned Development – Mixed Use District if it adjoins and forms a logical addition to the approved development. The procedure for the addition of land to the Planned Development - Mixed Use District shall be the same as for an original application, and all requirements shall apply except the minimum lot area requirement as set forth above.

§420-5.7. Open Space.

Open space promotes attractive and unique developments that are also environmentally conscious. PD-MUs shall include the following, in keeping with the Comprehensive Plan:

A. Open space shall be dedicated in a logical relationship to the site and in accordance with any guidance from the Comprehensive Plan regarding significant open space. Open space, and where appropriate, public access and shared use are strongly encouraged;

B. Improvements shall be configured to accommodate permitted, accessory and conditional uses in an orderly relationship with one another, with the greatest amount of open space and with the least disturbance to natural features.

§420-5.8. Densities.

The gross and net residential densities shall be shown on the approved final master plan by area and for the development as a whole in dwelling units per acre, and shall be binding upon the master plan's

approval. The overall gross density so approved shall be determined by the City with reference to the Comprehensive Plan.

Non-residential density shall be expressed in terms of total square footage by area and for the development as a whole. There is no maximum square footage for non-residential uses but the proposed uses should be in proportion to the overall intent and functionality of the planned district concept as set forth in **§420-5.1**.

§420-5.9. Setback regulations.

Within the Planned Development – Mixed Use District, minimum setback ranges shall be specifically established during the review and approval of the PD-MU master plan. Specific setbacks may be approved administratively during the site plan process if they are in conformance with the established ranges, or a modification to the PD-MU master plan will be required if the provided setbacks are not within the established ranges. The following guidelines shall be used in establishing the building spacing and setbacks:

A. Areas between buildings used as service yards, storage of trash, or other utility purposes should be designed so as to be compatible with adjoining buildings;

B. Building spacing and design shall incorporate privacy for outdoor activity areas (patios, decks, etc.) associated with individual dwelling units whenever feasible;

C. Yards located at the perimeter of the Planned Development – Mixed Use District shall conform to the setback requirements of the adjoining district, or to the setback requirements of the PD-MU district, whichever is greater; and

D. A 30 foot minimum setback is required when abutting a residential zoning district.

In no case shall setbacks interfere with public safety issues such as sight lines and utilities, including other public infrastructure such as sidewalks, open space, etc.

§420-5.10. Height of buildings.

In the Planned Development – Mixed Use District, the height regulations shall be:

A. Single-family residences: 45 feet (maximum).

B. Banks, office buildings and hotels: 60 feet (maximum).

C. Apartments, shopping centers, and other permitted buildings: 60 feet (maximum).

D. Conditional use permits are required for structures exceeding the maximums listed in this section.

E. These limitations shall not apply to church spires, belfries, cupolas, chimneys, flues, television antennas and radio aerials.

F. All accessory buildings shall generally be less than the main building in height.

§420-5.11. Parking.

Within the Planned Development – Mixed Use District, the applicant shall establish parking regulations for consideration by the City. The proposed regulations should be based on a parking needs study or equivalent data. Such regulations shall reflect the intent of the Comprehensive Plan to decrease impervious cover by reducing parking requirements, considering alternative transportation modes, and using pervious surfaces for spillover parking areas. Shared parking areas, especially with non-residential

uses are encouraged. Parking lots will be interconnected on adjacent parcels whenever possible. Small, landscaped and interconnected parking lots, rather than large, central parking lots, shall be encouraged. Parking lots shall not dominate the image of a site.

§420-5.12. Utilities.

All new utility lines, electric, cable television, and other telecommunication lines, etc., shall be placed underground.

§420-5.13. Application for rezoning.

A. The applicant shall file an application for rezoning with the Zoning Administrator. The application shall consist of three primary sections: a narrative, an existing conditions map, and a PD-MU master plan. Prior to submitting an application for rezoning, the applicant is encouraged to hold public meetings to receive public input regarding the proposed project.

1. Narrative

   i. A general statement of objectives to be achieved by the planned district including a description of the character of the proposed development and the market for which the development is oriented;

   ii. A list of all adjacent property owners;

   iii. Site development standards including, but not limited to density, setbacks, maximum heights, and lot coverage;

   iv. Utilities requirement and implementation plan;

   v. Phased implementation plan;

   vi. Comprehensive sign plan;

   vii. Statements pertaining to any architectural and community design guidelines shall be submitted in sufficient detail to provide information on building designs, orientations, styles, lighting plans, etc.; and

   viii. List of exceptions or differences from the zoning requirements, if any are being requested.

2. Existing Conditions Map

   i. Topography, including steep slopes (>15%);

   ii. Water features;

   iii. Roadways;

   iv. Structures;

   v. Tree drip lines;

   vi. Major utilities;

   vii. Significant environmental features; and

   viii. Existing and proposed ownership of the site along with all adjacent property owners.

3. PD-MU Master Plan

   The preliminary PD-MU master plan shall be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed Planned Development – Mixed Use District. At a minimum, the preliminary PD-MU master plan, shall include the following:

   i. Proposed layout of the Planned Development – Mixed Use District including the general location of uses, types of uses, density range of uses, and a landscaping plan;

   ii. Building heights;

   iii. Methods of access from existing state-maintained roads to proposed areas of development;

   iv. General road alignments;

   v. General alignments of sidewalks, bicycle and pedestrian facilities;

   vi. A general water layout plan indicating the intended size and location of primary lines and the general location of fire hydrants (e.g., one every two blocks, etc.);

   vii. A general sanitary sewer layout indicating the size and location of primary lines, and the location of pump stations;

   viii. A general plan showing the location and acreage of the active and passive recreation spaces, parks and other public open areas; and

   ix. A stormwater management plan detailing both stormwater quantity and quality mitigation measures and best practices.

B. Additionally, an environmental assessment and a traffic study may also be required to be submitted as part of the application package. The environmental assessment should detail any project impacts on FEMA identified flood areas and slopes greater than 25%. The traffic study should quantify existing and projected traffic levels on all adjacent streets, and at all proposed entrances.

C. The City Attorney shall review any property owner's or other association's charter and regulations prior to final site plan approval.

D. The Planning Commission shall review the preliminary PD-MU master plan for the proposed Planned Development – Mixed Use District in light of the goals enumerated in the comprehensive plan, consider it at a scheduled public hearing, and forward its recommendation along with the preliminary PD-MU master plan to the City Council for consideration. The City Council shall hold a public hearing thereon, pursuant to public notice as required by the Code of Virginia, 15.2-2204, after which the City Council may make appropriate changes or corrections in the ordinance or proposed amendment. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by the Code of Virginia, 15.2-2204. Such ordinances shall be enacted in the same manner as all other ordinances. The plan and narrative approved by the City Council shall constitute the final PD-MU master plan for the Planned Development – Mixed Use District.

   1. The Planning Commission shall approve the master plan when it finds, after reviewing a report from the Zoning Administrator and after holding a public hearing thereon, that the

development shown on the master plan is in compliance with the requirements of the Planned Development – Mixed Use District and other applicable provisions of this chapter. Planning Commission approval requires the following findings be made.

The proposed development:

i. Will not be detrimental to the public health, safety and welfare or unduly injurious to property values or improvements in the neighborhood;
ii. Enhances the Lexington community's sense of place and character and is a better design than can be produced through traditional zoning districts;
iii. Incorporates high-quality architectural design and provides gradual transitions to surrounding land uses using design features, such as setbacks, height step downs, and landscaping;
iv. Improves sidewalk and pedestrian access and adds green infrastructure as appropriate;
v. Provides adequate parking to avoid impact on adjacent areas;
vi. Screens parking from off-site views using plants and at gateways incorporate special signage, public art, and/or landscaping to create a sense of arrival into the City;
vii. Does not conflict with the policies and principles of the City's adopted Comprehensive Plan;
viii. Demonstrate that adequate public services are or will be available; and
ix. Addresses any associated traffic study.

Otherwise, the Commission shall disapprove the plan.

2. The action of the Commission shall be based upon a finding of fact, which shall be reduced to writing and preserved among its records. The Commission shall submit to the Council a copy of its finding and a copy of the PD-MU master plan, together with its recommendations.

3. Amendments to the PD-MU master plan may be accomplished by the same procedure as for an original application.

E. Once the City Council has approved the final PD-MU master plan, all accepted conditions and elements of the plan shall constitute proffers, enforceable by the Zoning Administrator.

F. The Zoning Administrator shall approve or disapprove a final site plan within sixty days from the receipt of such plan. The site plan shall be in substantial conformance with the approved final PD-MU master plan. Such final site plan may include one or more sections of the overall Planned Development – Mixed Use District, and shall meet all applicable federal, state, and City regulations.

G. A property owners' association shall be established to provide for the ownership, care and maintenance of all common open space areas and other common facilities and improvements unless all real property within the district is owned by a single entity. All common open space, facilities and improvements shall be dedicated to the property owner's association and no land within privately owned lots shall be considered common open space. All property owners' associations shall be created by covenants and restrictions recorded among the land records of the City of Lexington and all such covenants shall include provisions for the maintenance of common open space, facilities and improvements. The property owners' association shall be responsible for the maintenance of all common open space, facilities and improvements in a

reasonable condition. All open space areas shall be landscaped as shown on the adopted PD-MU master plan and shall be kept in a clean, attractive and safe condition. All open space areas shall be kept open to and available for use by the residents of the planned community.

§420-5.14. Amendments to the PD-MU master plan.

Where sections of the Zoning or Subdivision Ordinance are deemed to be in conflict with the goals of the final PD-MU master plan, the rezoning application shall be considered a waiver or modification to these sections if specified in the final PD-MU master plan. Otherwise, the applicant must provide a clear explanation as to why certain regulations are in conflict with the final PD-MU master plan, demonstrate that the public's health, safety and welfare will not be compromised, and request the specific waivers or modifications to be considered by the City after a public hearing. Amendments to the master plan may be accomplished by the same procedure as for an original application.

Article VI. Entrance Corridor Overlay District (EC)

§420-6.1. Intent.

The purpose of this district is to protect and enhance the City's attractiveness; protect the City's scenic, historic, architectural and cultural resources; support and stimulate development which is appropriate and complimentary to the numerous properties of historic, architectural and cultural significance throughout the City; protect and enhance the architectural and scenic character of significant access routes to the City's historic downtown; promote orderly and attractive development along these significant access routes; and ensure that development within this district is compatible with these resources through architectural control of development.

§420-6.2. Area created; boundaries.

The entrance corridor overlay district~~s~~ shall be the boundary of the General Commercial District (C-2) and the Planned Development – Mixed Use District (PD-MU).

§420-6.3. Permitted uses.

A building and/or land shall be used for the following purposes: uses which are permitted in the underlying district shall be permitted in the EC District.

§420-6.4. Conditional uses.

A building and/or land may be used for the following purposes subject to the issuance of conditional use permit as authorized in **§420-1.11**: uses permitted by conditional use permit in the underlying district shall be permitted by conditional use permit in the EC District.

§420-6.5. Area and bulk regulations.

Uses, buildings and structures shall be subject to regulations for lot area, lot width, street frontage, setback, height, yards, parking and signs applicable in the underlying district in which they are located.

§420-6.6. Certificate of appropriateness required.

A certificate of appropriateness is required for the following:

A. No building permit shall be issued involving construction or exterior modifications to a building until a certificate of appropriateness has been issued in accordance with **§4**20-6.7 for improvements subject to such building permit.

B. No site plan shall be approved until a certificate of appropriateness has been issued in accordance with **§420-6.7** for all buildings and improvements shown thereon.

C. No changes shall be made to the exterior color or colors of a building or sign until a certificate of appropriateness has been issued in accordance with **§420-6.7** for such color changes.

§420-6.7. Administration.

A. The Planning Commission shall be responsible for the issuance of certificates of appropriateness required by this article. Application for a certificate of appropriateness shall be filed with the Zoning Administrator. Materials submitted shall include a preliminary site plan, landscaping plan, elevations of all buildings facades visible from public streets, samples of proposed building materials, lighting plan and details and scale drawings of proposed signage, to include materials, colors and proposed lighting. Architectural and landscaping plans should include elevations and renderings that depict colors, materials and designs. The Planning Commission shall review the application and, if approved, shall issue a certificate of appropriateness, with or without

conditions, together with any modifications deemed necessary to ensure compliance with this section. Failure of the Planning Commission to act within 60 days from the date of application shall constitute approval of the application.

B. In making its determinations, the Planning Commission may consider any architectural feature which influences appearance, such as, but not limited to, motif and style, color, texture and materials, configuration, orientation, mass, shape, height and location of buildings, location and configuration of parking areas, landscaping and buffering.

§420-6.8. Design standards.

All applications for certificates of appropriateness must satisfy the design standards contained in this section.

A. Landscaping.

1. Landscaping shall be used to soften the visual impact of development and enhance the appearance of the area.
2. Landscaping shall be sufficient to soften the visual effects of parking lots, reduce the effective visual mass of large buildings and provide screening between development, the street and surrounding lots.
3. Landscape buffers shall be provided adjacent to public streets of sufficient size to permit street trees and plantings to be installed to reduce the visibility into parking lots.
4. Landscaping shall be compatible with landscaping on adjacent properties.

B. Signage.

1. Each parcel shall have an overall sign plan which reflects a consistent style and specifies the size and color scheme for proposed signage.
2. Materials used in signs and their support structures should reflect the building served by the sign.
3. Sign colors should be harmonious with the building which they serve

C. Architecture.

1. Materials, colors and general style of buildings within a development should be coordinated.
2. Heating and air-conditioning units, ventilation units, and mechanical equipment shall be screened from view from public streets.
3. Loading docks, trash containers and mechanical equipment shall be screened from view from public streets.
4. The effective visual mass of large buildings should be reduced by variations in roofline, building angles, dimensional relief, color, architectural detailing and landscaping.
5. Architectural styles, building and roofing materials, and colors shall be reflective of the traditional architecture of Lexington. This may be accomplished through building scale,

materials and forms, all of which may be embodied in architecture which is contemporary as well as traditional.

6. Trademark buildings and related features shall be modified to meet these design standards.

D. Site planning.

1. Parking lot layouts shall respond to the topographic characteristics of the site.
2. The number of access points to parking lots from a street will be minimized and shall relate to other existing curb cuts whenever possible.
3. Parking lots will be interconnected on adjacent parcels whenever possible.
4. Small, landscaped and interconnected parking lots, rather than large, central parking lots, shall be encouraged.
5. Parking lots shall not dominate the image of a site.
6. Pedestrian access from the sidewalk into individual project sites, as well as within sites and between sites, shall be provided.

E. Lighting.

1. Lighting should be of uniform style for each project site.
2. Lighting should be contained within the site and meet the exterior lighting standards in §420-15.3.
3. Light poles shall not exceed 25 feet in height.

§420-6.9. Appeals.

Appeals may be taken from any action or decision of the Zoning Administrator and Planning Commission by granting or refusing to grant a certificate of appropriateness pursuant to the provisions of this article. Appeals shall be taken to the Lexington City Council within 30 days of the action taken by the Planning Commission. Appeals shall be made by letter addressed to the City Manager noting the particular action being appealed. Any owner or other party aggrieved by the decision of the Lexington City Council shall have the right to appeal to the Circuit Court of the City of Lexington within 30 days of the action taken by the Lexington City Council.

Article VII. Institutional District I-1

§420-7.1. Intent.

The purpose of this district is to provide for orderly development of major institutions such as colleges, universities and medical campuses in accord with approved master plans for these institutions, with minimum procedural delay, and at the same time to ensure coordination of institutional development with surrounding land uses and the overall fabric of the City, the City's Comprehensive Plan and applicable City codes and ordinances.

§420-7.2. Overlay concept.

To enable the district to operate in harmony with the plan for land use and population density embodied in this chapter, the Institutional District I-1 is created as a special district to be superimposed on base districts contained in this chapter and is to be so designated by a special symbol on the Zoning District Map.

§420-7.3. Permitted uses.

A building and/or land shall be used for the following purposes:

A. Insofar as uses are generally consistent with the base district, public and private schools, colleges, universities, medical campuses and other educational or research institutions which have been approved as part of a master plan as set forth herein below, and including hospitals and other medically related facilities, dormitory or other student housing, university-administered fraternity and sorority houses, other fraternity and sorority houses with conditional use permits, staff and faculty housing, classroom, library, religious, administrative, recreational, athletic, alumni, parking and service facilities, signs and other accessory uses owned by or operated under the control of such institution.

B. Facilities such as those set forth in Subsection **A** of this section, but which have not been approved as a part of a master plan as set forth below, shall require a conditional use permit.

§420-7.4. Conditional uses.

[Added 8-7-2008 by Ord. No. 2008-04]

A. Facilities such as those set forth in **§420-7.3A**, but which have not been approved as a part of a master plan as set forth below.

B. Portable buildings in accordance with **§420-11.5**.

§420-7.5. Area and bulk regulations.

For uses, buildings and structures approved as a part of an institutional master plan, the approved conditions shall control all matters covered by the plan, including lot area, lot width, street frontage, setback, height, yards, parking and signs. Uses, buildings and structures not within the area of or not a part of an approved institutional master plan shall be subject to regulations for lot area, lot width, street frontage, setback, height, yards, parking and signs applicable in the district where they are located.

§420-7.6. Master plan.

A. Contents. The City Planning Commission may recommend to the City Council a master plan for all or part of the I-1 District. Such master plan shall be submitted to the Commission by the owner or owners of the property. The plan shall include a graphic representation of the following information at a suitable scale, together with necessary explanatory material:

   1. The boundaries of the area involved and the ownership of properties contained therein, as well as all existing public streets and alleys within and adjacent to the site.

2. The location and use of all existing buildings on the site, as well as the approximate location, height, dimensions and general use of all proposed buildings or major additions to existing buildings.
3. The location of all existing parking facilities and the approximate location of all proposed parking facilities, including the approximate number of parking spaces at each location and all existing and proposed means of vehicular access to parking areas and to public streets and alleys. Any proposed changes in the location, width or character of public streets and alleys within and adjacent to the site shall also be shown on the plan.
4. The general use of major existing and proposed open spaces within the site and specific features of the plan, such as screening, buffering or retention of natural areas, which are intended to enhance compatibility with adjacent and nearby properties.

B. Action by Planning Commission; amendments.

1. The Planning Commission shall approve the master plan when it finds, after reviewing a report from the Zoning Administrator and after holding a public hearing thereon, that the development shown on the master plan is in compliance with the requirements of the Institutional District I-1 and other applicable provisions of this chapter; that such development will not be detrimental to the public health, safety and welfare or unduly injurious to property values or improvements in the neighborhood and will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan; and that adequate public services are or reasonably will be available. Otherwise, the Commission shall disapprove the plan.
2. The action of the Commission shall be based upon a finding of fact, which shall be reduced to writing and preserved among its records. The Commission shall submit to the Council a copy of its finding and a copy of the master plan, together with its recommendations.
3. Amendments to the master plan may be accomplished by the same procedure as for an original application.

§420-7.7. Approval of zoning permits; notification of violation.

Upon approval of the master plan by the City Council, following a public hearing thereon, necessary zoning permits may be approved by the Administrator, if such permits are deemed to be in compliance with the provisions of this chapter and substantially in accordance with the approved master plan or subsequent amendment thereto. If at any time after approval of a plan or its amendment the Administrator finds the plan or provisions of this chapter to have been violated, the City Council shall be so informed.

§420-7.8. Site plan required.

Site plans are required to be submitted in accordance with the requirements of Article **II** of this chapter. Where construction of major facilities, such as new buildings, major additions, vehicular accessways, or parking areas, is proposed within 200 feet of the boundaries of an area for which a master plan has been approved or within 200 feet of a public street, the site plan must be submitted to the City Council for approval after receiving a recommendation from the Planning Commission. In addition, if the base district is part of the City's historic area, construction, reconstruction, alterations, repairs or demolitions shall be subject to architectural review in accordance with the requirements of Article **VIII** of this chapter.

§420-7.9. Design review required.

Design review is required for all facilities in accordance with the requirements of Article **VI** of this chapter.

Article VIII. Historic Downtown Preservation District

§420-8.1. Intent.

The purposes and objectives of this article are to:

A. Bring attention to the architectural excellence and historic importance of certain buildings, structures, places and areas in the City.

B. Improve the land values, business climate, environmental quality, facilities and services of the City, while keeping the unique and distinctive character of certain sections.

C. Foster a more favorable climate in the City, especially in the Central Business District, for the development of tourism as a basic and vital industry in the community.

D. Encourage the development of off-street parking in the Central Business District for the convenience of shoppers, City and county employees and tourists.

E. To assist private organizations within the City in furthering a deeper appreciation of the rich cultural heritage of the community.

F. To promote a broad program, within the scope of this article, for preserving, rehabilitating and maintaining architecturally fine structures, monuments, walkways, places and areas within the entire City.

§420-8.2. Scope.

Any building wholly or partially included within the Historic Downtown Preservation District shall fall within the concept of this article. The building regulations of the Historic Downtown Preservation District will conform to the existing zoning districts that the Historic Downtown Preservation District is superimposed upon, except that anything in this chapter to the contrary notwithstanding, any existing structure located in the Historic Downtown Preservation District and listed as an historic structure, as per **§420-8.8**, may be used as a single-family or multifamily dwelling unit.

§420-8.3. Area created; boundaries.

In order to execute the purposes and objectives of this article, there is hereby created in the City an Historic Downtown Preservation District. The boundaries of the Historic Downtown Preservation District shall fall within the classification of the C-1 zone.

§420-8.4. Investigation of prospective areas.

It shall be a function of the Board to investigate and delineate buildings, structures, places and areas in the City having historic interest or value which should be preserved and protected in the execution and attainment of the purposes and objectives declared in **§420-8.1** and to report thereon from time to time to the Council for consideration as to whether such areas should be set apart for preservation and recognition, through whatever means possible.

§420-8.5. Permit.

A. Certificate of appropriateness required. No improvement, structural or otherwise, in the Historic Downtown Preservation District shall be located, constructed, reconstructed, altered, repaired or demolished unless a permit therefor is issued by the Zoning Administrator. No such permit shall be issued unless a certificate of appropriateness is issued for such purpose by the Architectural Board and unless the location, construction, reconstruction, alteration, repair or demolition

thereof otherwise complies with the requirements of the Building Code and other ordinances and laws applicable and relating thereto.

B. Application. Application for a certificate of appropriateness to locate, construct, reconstruct, alter, repair or demolish a building, structure or any other improvement in the Historic Downtown Preservation District shall be made to the Zoning Administrator, in writing, by the owner of such building, structure or property. The application for such certificate of appropriateness shall be accompanied by plans and specifications of the parts of the building, structure or other improvement which are or will be subject to public view from a public street, public way or public place. Such plans and specifications shall show the proposed exterior architectural features of such building, structure or improvement and shall include, but not necessarily be limited to, the general design, arrangement, textures, materials, planting and color proposed to be used in the location, construction, reconstruction, alteration or repair of the building, structure or improvement and the types of windows, exterior doors, lights, landscaping, parking, signs and other exterior fixtures and appurtenances which will be subject to public view from a public way or other public place. In the case of an application for demolition, the application shall be accompanied by plans and specifications of the remaining and/or adjacent structure(s) and, if none, then the lot or remaining improvements on the site. Such plan shall address the view from a public way or public place of such lot or remaining structure(s). Upon the filing of such application, the Zoning Administrator shall transmit it, with such plans and specifications, to the Board.

§420-8.6. Certificate of appropriateness.

A. Action by Architectural Review Board.

1. Upon receipt of the application and the plans and specifications required by **§420-8.5B**, the Architectural Review Board shall confer with the applicant for the certificate of appropriateness and shall approve or disapprove such plans and specifications and, if such plans are approved, shall issue a certificate of appropriateness therefor, with or without conditions, or with such modifications of the plans and specifications as the Board deems necessary to execute the purposes and objectives of and to require compliance with the regulations and restrictions set out in this article. Otherwise, the Board shall reject such plans and specifications and shall not issue the certificate of appropriateness. The failure of the Board to approve or disapprove such plans and specifications, with or without conditions or modifications, within 60 days from the date of application for the certificate of appropriateness shall be deemed to constitute approval of the plans and specifications as submitted and the Zoning Administrator shall issue the permit, provided that the work to be done under the permit complies with the requirements of the Building Code and other ordinances and laws applicable or relating thereto.

2. Razing or demolition.

    i. In addition to the right of appeal as set forth in **§420-8.11**, the owner of a building or structure located in the Historic Downtown Preservation District set forth in **§420-8.3**, the razing or demolition of which is subject to the provisions of this article, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:

        1. He has applied for such right;

2. The owner has, for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to the City or to any person, firm, corporation, government or agency thereof, or political subdivision thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto; and

3. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

ii. Any appeal which may be taken to the Circuit Court from the decision of the Lexington City Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the Lexington City Council, but thereafter the owner may renew his request to the Lexington City Council to approve the razing or demolition of the historic building or structure.

iii. The time schedule for offers to sell shall be as follows: three months when the offering price is $25,000 or less; four months when the offering price is $25,000 or more but less than $40,000; five months when the offering price is $40,000 or more but less than $55,000; six months when the offering price is $55,000 or more but less than $75,000; seven months when the offering price is $75,000 or more but less than $90,000; and 12 months when the offering price is $90,000 or more.

B. Considerational factors. Before a certificate of appropriateness is issued by the Board, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to other pertinent factors which may be involved in the execution of the purposes and objectives declared in **§420-8.1**, shall consider:

1. The historical or architectural value and significance of the building or structure and its relationship to or congruity with the historic value of the land, place or area in the Historic Downtown Preservation District upon which it is proposed to be located, constructed, reconstructed, altered or repaired.

2. The appropriateness of the exterior architectural features of such building or structure to such land, place or area and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Historic Downtown Preservation District and environs.

3. The general exterior design, arrangement, textures, materials, planting and color proposed to be used in the location, construction, alteration or repair of the building, structure or improvement and the types of windows, exterior doors, lights, landscaping and parking viewed from a public street, public way or other public place and their relationship to or congruity with the other factors to be considered by the Board under this section.

4. Any applicable provisions of the city's design guidelines

C. Factors not necessarily considered. The Board shall not necessarily consider detailed designs, interior arrangement or features of a building or structure which are not subject to public view from a public street, public way or other public place and shall not impose any requirements except for the purpose of preventing developments incongruous with the historic aspects of the surroundings and the Historic Downtown Preservation District.

§420-8.7. Maintenance and repair.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any exterior architectural feature now or hereafter located in an Historic Downtown Preservation District.

§420-8.8. Inventory of buildings.

The Board, in order to further execute the purposes and objectives declared in **§420-8.1**, may make an inventory or list of all existing buildings in the City which it deems to be of historic interest because of their architecture, persons who have resided there or events which have occurred therein or for other historic reasons. Such inventory or list shall give a brief description of each building, the date of its construction, as nearly as can be ascertained, the reasons for including it in such inventory or list, and the names and addresses of its present owners, as shown on the current land books of the City. In this inventory, the Board may ask the assistance and cooperation of the local historical organizations, as the Board sees fit.

§420-8.9. Building markers.

The Board shall encourage one or all of the local historical organizations to design an appropriate marker for the proposed Historic Downtown Preservation District and place such recommendations before the Board for adoption and shall invite each owner of an historic building described in the inventory to display the marker thereon. If such owner agrees to display the marker, he shall signify such agreement by executing an instrument approved by the City Attorney, a copy of which shall be filed in the office of the Building Official. The Building Official shall thereupon cause to be erected and thereafter shall maintain such marker on or adjacent to such building, on which shall be inscribed the name of the building or its builder and the original owner or the date of construction of the building. The cost of marking, inscribing, installing and maintaining such marker shall be paid through public funds raised for this purpose.

§420-8.10. Signs.

The Board shall prescribe the character, type, color and materials used in the erection, posting, display or maintenance of signs permitted in the Historic Downtown Preservation District, and, in so doing, the Board shall give due consideration to the purposes of such signs and require that they be in harmony with the exterior general design, arrangement, textures, materials, color and use of the building or structure on or at which they are erected, posted, displayed or maintained and congruous with the purposes and objectives declared in **§420-8.1**, without defeating the purpose for which such signs are intended.

§420-8.11. Appeals.

Appeals may be taken from any action or decision of the Zoning Administrator and Board in granting or refusing to grant a certificate of appropriateness pursuant to the provisions of this article. Appeals shall be taken to Lexington City Council within 30 days of the action taken by the Architectural Review Board. An appeal shall be noted by letter addressed to the City Manager noting the particular action appealed from. Further, any owner or any party aggrieved by the decision of the Lexington City Council shall have the right to appeal to the Circuit Court of the City of Lexington within 30 days of the action taken by the Lexington City Council.

Article IX. Residential Historic Neighborhood Conservation District

§420-9.1. Intent.

The purposes and objective of this article are to:

A. Bring attention to the architectural excellence and historic importance of certain buildings, structures, places and residential areas in the City.

B. Preserve and improve the unique and distinctive character of certain residential sections.

C. Enhance the quality of life for residents by preserving the historic resources of the City.

D. Maintain and improve property values, encourage sound stewardship and be minimally intrusive on property owners.

E. Assist private organizations within the City in furthering a deeper appreciation of the rich cultural and historic heritage of the community.

§420-9.2. Scope.

Any building wholly or partially included within any Residential Historic Neighborhood Conservation District shall fall within the concept of this article. The building regulations of any Residential Historic Neighborhood Conservation District will conform to the existing zoning districts upon which such area is superimposed.

§420-9.3. Areas created; boundaries.

In order to execute the purposes and objective of this article, there are hereby created in the City one or more Residential Historic Neighborhood Conservation Districts. The boundaries for such district or districts shall be designated on the City of Lexington Zoning Map.

§420-9.4. Approval of major actions by Architectural Board.

The following major actions shall be approved only after a public meeting and favorable action by a majority of the members of the Architectural Board:

A. Demolishing or moving of a main or accessory building.

B. Construction of a new main building or a new accessory building.

C. Installation of a chicken coop and pen, either mobile or fixed and in accordance with Sec. 420-11.1.1, which will be subject to public view from a public street, public way or public place.

§420-9.5. Certificate of appropriateness required.

No permit shall be issued for any improvement requiring approval by the Architectural Board by **§420-9.4** above unless a certificate of appropriateness is issued for such purpose by the Architectural Board and unless the construction or demolition complies with the requirements of the Building Code and other ordinances and laws applicable and relating thereto.

§420-9.6. Application for certificate of appropriateness.

Application for a certificate of appropriateness shall be made to the Zoning Administrator, in writing, by the owner of such building, structure or property. Application for new construction shall be accompanied by plans and specifications, sketches or other documentation of the parts of the building, structure or other improvement which are or will be subject to public view from the contiguous public street or streets in the case of corner lots. Such documentation shall show the proposed exterior architectural features of such building, structure or improvement and shall include, but not necessarily be limited to, the general

design, arrangement, textures, and materials proposed to be used. In the case of an application for demolition the application shall be accompanied by plans and specifications, photographs or other appropriate documentation of the remaining and/or adjacent structure(s) and, if none, then the lot or remaining improvements on the site. Such plan shall address the view from the public street of such lot or remaining structure(s). Upon the filing of such application, the Zoning Administrator shall transmit it, with such plans and specifications, to the Board.

§420-9.7. Action by Architectural Board.

A. Upon receipt of the application and the plans and specifications required above, the Architectural Board may confer with the applicant for the certificate of appropriateness and shall approve or disapprove such plans and specifications and, if such plans are approved, shall issue a certificate of appropriateness therefor, with or without conditions, or with such modifications of the plans and specifications as the Board deems necessary to execute the purposes and objectives of and to require compliance with the regulations and restrictions set out in this article. Otherwise, the Board shall reject such plans and specifications and shall not issue the certificate of appropriateness. The failure of the Board to approve or disapprove such plans and specifications, with or without conditions or modifications, within 60 days from the date of application for the certificate of appropriateness shall be deemed to constitute approval of the plans and specifications as submitted, and the Zoning Administrator shall issue the permit, provided that the work to be done under the permit complies with the requirements of the Building Code and other ordinances and laws applicable or relating thereto.

B. The Architectural Board shall be guided in its decisions by the purposes and objectives declared in **§420-9.1** and by the standards and guidelines established in **§§ 420-9.8** and **420-9.10** below. The Board shall have the authority to request modification of proposed actions in order to comply with said standards and guidelines.

C. The Architectural Board shall approve any application which conforms to the purposes and objectives declared in **§420-9.1** and the standards and guidelines established in **§§ 420-9.8** and **420-9.10**. The Board shall give reasons for its decisions, shall act promptly on applications before it, and shall coordinate its procedures with those of other agencies and individuals charged with the administration of this article. The Board may seek advisory assistance from experts in such fields as the Board's work requires.

§420-9.8. Considerational factors.

Before a certificate of appropriateness is issued by the Board for work within these Residential Historic Neighborhood Conservation Districts, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to considering the purposes and objectives specified in **§420-9.1**, shall consider:

A. The appropriateness of the exterior architectural features of the building and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Residential Historic Neighborhood Conservation District and environs.

B. The general exterior design, arrangement, textures, and materials proposed to be used in the construction of the building when viewed from the public street (or streets in the case of a corner lot) along the lot front of said building and its relationship to the other factors to be considered by the Board under this section. Among other things, the Board is to consider the overall architectural design, form and style, including the height, mass, proportion and scale; architectural details, such as the design and style of decorative or functional fixtures, such as

lighting, windows and doors; the design and arrangement of buildings on the site; and the texture and materials of a proposal when assessing architectural compatibility.

C. Any applicable provisions of the city's design guidelines.

§420-9.9. Factors not to be considered.

A. The Board shall not consider the interior arrangement of a building or features of a building which are not subject to public view from the contiguous public street or streets.

B. The Board shall not impose any requirements except for the purpose of preventing developments incongruous with the historic and architectural aspects of the building and its surroundings or the character of the Residential Historic Neighborhood Conservation District.

§420-9.10. Considerational factors for demolition, moving or razing.

When reviewing requests for demolition, moving, or razing, the Board shall also consider whether:

A. The loss of the building will be adverse to the district or to the public interest by virtue of its uniqueness or its architectural or historic significance.

B. The demolition, moving or razing will have an adverse effect on the character and surrounding environment of the district.

C. The historic, archaeological, or architectural value of a structure and its contribution to the historic value of the surrounding area.

D. The building is of such significance that it would qualify on its own merit for designation as a state or local historic building or for listing in the landmarks registry, or

E. The building is of such old and uncommon design, texture and/or material that it could be reproduced only with great difficulty and/or expense.

F. Any applicable provisions of the city's design guidelines

§420-9.11. Appeals.

Appeals of any decision of the Zoning Administrator in granting or refusing to grant a certificate of appropriateness or building permit pursuant to the provisions of this article may be taken in accordance with procedures set forth below. Appeals are limited to owners of the property affected by such decision, residents of adjacent properties, and the Lexington City Council. Appeals of any decision of the Board in granting or refusing to grant a certificate of appropriateness or building permit pursuant to the provisions of this article may be taken in accordance with the procedures set forth below. The City Council may appeal the decision of the Zoning Administrator and the Board. In such instance the appeal shall be directed to the Circuit Court.

A. The appeal process shall be as follows:

1. Appeals of decisions of the Zoning Administrator and Architectural Board shall be taken to the Lexington City Council within 30 days of the action taken by the Architectural Board. An appeal shall be noted by letter addressed to the City Manager noting the particular action appealed from. Further, any appellant aggrieved by the decision of the Lexington City Council shall have the right to appeal to the Circuit Court within 30 days of the action taken by the Lexington City Council.

2. Appeals by the Lexington City Council of any decision of the Architectural Board shall be directly to the Circuit Court.

B. Razing or demolition

1. In addition to the right of appeal as set forth above, the owner of a building or structure located in a Residential Historic Neighborhood Conservation District set forth in **§420-9.3**, the razing or demolition of which is subject to the provisions of this article, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure, provided that:
    i. He or she has applied for such right;
    ii. The owner has, for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to the City or to any person, firm, corporation, government or agency thereof, or political subdivision thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto; and
    iii. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.
2. Any appeal which may be taken to the Circuit Court from the decision of the Lexington City Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the Lexington City Council, but thereafter the owner may renew his or her request to the Lexington City Council to approve the razing or demolition of the historic building or structure.
3. The time schedule for offers to sell shall be as follows: three months when the offering price is $25,000 or less; four months when the offering price is $25,000 or more but less than $40,000; five months when the offering price is $40,000 or more but less than $55,000; six months when the offering price is $55,000 or more but less than $75,000; seven months when the offering price is $75,000 or more but less than $90,000; and 12 months when the offering price is $90,000 or more.

§420-9.12. Investigation of prospective areas.

The Board may investigate and propose buildings, structures, places and areas in the City having historic interest or value which should be preserved and protected in the execution and attainment of the purposes and objectives declared in **§420-9.1** and report thereon from time to time to the Planning Commission for consideration as to whether such areas shall be set apart for preservation and recognition, through whatever means possible.

§420-9.13. Maintenance and repair.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any exterior architectural feature now or hereafter located in a Residential Historic Neighborhood Conservation District.

Article X. General Floodplain District FP

§420-10.1. Intent.

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

A. Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.

B. Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding.

C. Requiring all those uses, activities and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage.

D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

§420-10.2. Applicability.

These provisions shall apply to all lands within the City and identified as being in the one-hundred-year floodplain by the Federal Emergency Management Agency.

§420-10.3. Compliance and liability.

A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.

B. The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

C. This article shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

§420-10.4. Abrogation and greater restrictions.

This article supersedes any article currently in effect in flood-prone districts. However, any underlying article shall remain in full force and effect to the extent that its provisions are more restrictive than this article.

§420-10.5. Description of districts.

A. Basis of districts. The various floodplain districts shall include areas subject to inundation by waters of the one-hundred-year flood. The basis for the delineation of these districts shall be the

Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) for the City prepared by the Federal Emergency Management Agency, effective April 6, 2000.

1. The floodway district is delineated, for purposes of this article, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one-hundred-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.
2. The flood-fringe district shall be that area of the one-hundred-year floodplain not included in the floodway district. The basis for the outermost boundary of the district shall be the one-hundred- year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map.
3. The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a one-hundred-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one-hundred-year flood elevations and floodway information from federal, state and other acceptable sources shall be used, when available. Where the specific one- hundred-year flood elevation cannot be determined for this area, using other sources of data, such as the United States Army Corps of Engineers Floodplain Information Reports, United States Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computation, etc., shall be submitted in sufficient detail to allow a thorough review by the City.

B. Overlay concept.

1. The floodplain districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. In case of any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
3. In the event that any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

§420-10.6. District boundaries.

The boundaries of the floodplain districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this article and which shall be kept on file in the office of the Zoning Administrator.

§420-10.7. District boundary changes.

The delineation of any of the floodplain districts may be revised by the City Council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or an individual documents the need for such a change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

§420-10.8. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence if he/she so desires.

§420-10.9. General provisions.

A. Permit requirement. All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building and the City of Lexington Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch or any other drainage facility or system.

B. Alteration or relocation of watercourse. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit shall be obtained from the United States Army Corps of Engineers, the Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Emergency Management Agency.

C. Site plans and permit applications. All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

    1. The elevation of the one-hundred-year flood.
    2. The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929.
        i. For structures to be elevated, the elevation of the lowest floor (including basement).
        ii. For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
    3. Information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred-year flood, if available.
    4. Documentation, certified by a registered engineer or architect, which states that the proposed construction or development, including floodproofing and anchoring methods,

has been adequately designed to withstand the pressures, velocities, and impact and uplift forces associated with the one-hundred-year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

5. Topographic information showing existing and proposed ground elevations.

D. Manufactured homes. Manufactured homes that are placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

§420-10.10. Floodway district.

In the floodway district, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one-hundred-year flood elevation.

§420-10.11. Permitted uses in the floodway district.

The following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

A. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.

B. Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.

C. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

§420-10.12. Flood-fringe and approximated floodplain districts.

A. In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area, provided that all such uses, activities and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

B. Within the approximated floodplain district, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one-hundred-year flood elevation more than one foot at any point. The engineering principle, equal reduction of conveyance, shall be used to make the determination of increased flood heights.

C. Within the floodway area delineated by the applicant, the provisions of **§ 420-10.9** shall apply.

§420-10.13. Design criteria for utilities and facilities.

A. Sanitary sewer facilities. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the

systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.

C. Drainage facilities. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The City Council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities. All utilities, such as gas lines and electrical and telephone systems, being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flood occurrence.

E. Streets and sidewalks. Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

§420-10.14. Variances.

A. Factors to be considered. In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the one-hundred-year flood elevation.
2. The danger that materials may be swept onto other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access by ordinary and emergency vehicles to the property in time of flood.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
12. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
13. Such other factors which are relevant to the purposes of this article.

B. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.

C. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, or extraordinary public expense and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

D. Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.

E. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one-hundred-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

F. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

§420-10.15. Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

A. Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one-hundred- year flood elevation.

B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50% of its market value shall be elevated and/or floodproofed to the greatest extent possible.

C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area, to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of this article and the Virginia Uniform Statewide Building Code.

Article XI. Use and Design Standards.

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

§420-11.1. Residential Uses.

1. Accessory Dwelling Unit (ADU)

A. Purpose. In Lexington, accessory dwellings are intended to provide additional housing options. Accessory dwelling units (ADUs) increase options for households with changing family structures, and they can generate supplemental income to homeowners, helping increase housing affordability for owners and renters alike. These requirements formally recognize previously established apartments, and they provide for improved safety and physical appearance.

B. Definitions. The following words and phrases, as used in this subsection, shall have the following meanings:

"Accessory Dwelling Unit - Attached" means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an "attached accessory dwelling unit," for which a separate entrance and street address are required.

"Accessory Dwelling Unit - Detached" means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a "detached accessory dwelling unit," for which a separate street address is required.

C. General standards. Accessory Dwelling Units shall be subject to the following minimum standards:

1. An accessory dwelling unit cannot be constructed without the primary dwelling existing on the parcel.
2. No more than one ADU shall be allowed per parcel containing a primary dwelling.
3. Accessory dwelling units must comply with all applicable and current building code regulations.
4. Unless otherwise provided in § 420-4.6, the parcel must meet the minimum lot requirements for a single family residence in the zoning district.
5. Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size and/or narrower than the minimum lot width provided the lot is a lot of record (i.e. legally nonconforming).

6. The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.
7. The separate sale of an accessory dwelling unit is prohibited.
8. Allowable square feet for accessory dwelling units shall be calculated as the sum of the total horizontal areas of all floors of the building, measured from the interior faces of exterior walls. Rooms with structural headroom of less than 6' 6" shall not be counted, nor shall garage space, provided the area of the garage does not exceed the counted floor area. Covered porches, decks, balconies, etc. shall not be counted unless they are enclosed, but shall not exceed 50 percent (50%) of the area of the counted floor area.
9. Any accessory dwelling units shall comply with the following parking requirements:
    a. If no parking spaces exist prior to an application for approval of an ADU, 1 off-street space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
    b. Where either 1 or 2 spaces exist prior to the issuance of the accessory dwelling permit, all such space(s) shall be maintained.
    c. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.
10. Notwithstanding any provision in § 420-11.3.22. of the City Code to the contrary, a primary dwelling or accessory dwelling unit on a lot may be used as a short term residential rental business as follows:
    a. Only one short term rental unit shall be allowed per parcel. The unit must be registered as a short term residential rental business as required by § 420-11.3.22 of the City Code.
    b. If the Host under § 420-11.3.22.A. is the lot owner, then (1) the lot owner must occupy the primary dwelling or the accessory dwelling unit as his or her principal place of residence and domicile as required in § 420-11.3.22. and (2) the registered short term rental unit may be located in either the primary dwelling or the accessory dwelling unit.
    c. If the Host under § 420-11.3.22.A. is a long-term lessee rather than the lot owner, then (1) the lot owner must occupy either the primary dwelling or the accessory dwelling unit as required by § 420-11.1.C.6., (2) the Host must occupy the other dwelling unit as his or her principal place of residence and domicile as required in § 420-11.3.22., and (3) the Host's dwelling must be the location of the registered short term rental unit.
    d. A short term rental unit located in the primary dwelling may be used either as a Type A or Type B short term rental business. A short term rental unit located in an accessory dwelling unit may be used only as a Type B short term rental business.
    e. The Host of a short term rental unit that is located in an accessory dwelling unit, is subject to this subsection, and is located in the R-1, R-2, or R-M residential zoning district may not rent the unit for more than forty-five (45) nights in each calendar year.
    f. The Host must comply with all other applicable requirements of § 420-11.1.1. and § 420-11.3.22.

D. Accessory Dwelling Unit – Attached standards. Attached Accessory Dwelling Units shall be subject to the following additional standards:

1. The gross floor area of an attached accessory dwelling unit may not exceed fifty (50) percent of the gross floor area of the principal structure in which it is located.

2. No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley.

E. Accessory Dwelling Unit – Detached standards. Detached Accessory Dwelling Units shall be subject to the following additional standards:

1. The maximum gross floor area of a detached accessory dwelling unit shall be as follows:

   a. If the gross floor area of the primary dwelling on the property exceeds 1,000 square feet, the gross floor area of a detached accessory dwelling unit may not exceed sixty (60) percent of the gross floor area of the primary dwelling nor more than 1,000 square feet.

   b. If the gross floor area of the primary dwelling on the property is less than 1,000 square feet, the gross floor area of a detached accessory dwelling unit may not exceed 600 square feet.

2. Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet in height nor 2 stories in height.

3. Any detached accessory building approved after February 1, 2024, containing an accessory dwelling shall comply with setbacks as follows:

   a. For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than ten feet to a side lot line or fifteen feet to a rear lot line;

   b. For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen feet to a side lot line or twenty feet to a rear lot line; and

   c. When the rear lot line runs along an alley, the minimum rear yard setback for a detached accessory dwelling unit shall be ten feet.

4. No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to February 1, 2024.

5. A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.

6. An accessory building in which the accessory dwelling unit is located shall not be required to be separately metered for utilities from the principal single family home.

7. A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zoning district in which an accessory dwelling unit is permitted.

8. Detached nonconforming accessory buildings existing prior to February 1, 2024, may be altered structurally or non-structurally, in accordance with all requirements of Article 16, to create an accessory dwelling provided the detached accessory dwelling unit can meet the following additional requirements:
   a. A nonconforming structure shall not be extended or enlarged.
   b. The maximum square footage of the detached accessory dwelling unit may not exceed that of the main dwelling.
   c. Fenestration, including bay window encroachments, or mechanical/HVAC units must be at least 5 feet from the property line and in accordance with Section 420-4.2 unless it is located on a wall facing an alley or side street.
   d. Exterior doors must be at least 5 feet from the property line adjacent to an alley or side street and at least 10 feet from the property line in all other cases.
   e. There is no maximum height limit on a nonconforming accessory structure to be used as a detached accessory dwelling unit, however no additional height may be added to such a structure.
   f. Except as otherwise provided in Section 420-16-1.C, a nonconforming accessory building may be changed to the accessory dwelling use in compliance with the standards contained in this section.
9. Notwithstanding any provision in Chapter 403, Water and Sewers, of the City Code to the contrary, no "detached accessory dwelling unit" under this Article shall be required to have a separate water meter; provided, however, the water and sewer connections for the "detached accessory dwelling unit" shall meet the following requirements:
   a. The water line servicing the "detached accessory dwelling unit" must be connected after the single water meter serving the property but before the water regulator serving the primary dwelling;
   b. The water line servicing the "detached accessory dwelling unit" must have its own dedicated water regulator;
   c. If the aggregate fixture count for the primary dwelling and the "detached accessory dwelling unit" exceeds 42 fixtures, then the single water meter serving the property and the service line must be upgraded to 1"; and
   d. The sewer line for the "detached accessory dwelling unit" must connect to the primary dwelling's sewer line on the subject parcel with a cleanout being installed at the connection point.

   Nothing in this section will preclude an owner from connecting a detached accessory dwelling unit's water or sewer service directly to the City's water main or sewer line, provided the owner pays the requisite connection charges. In addition, all owners of detached accessory dwelling units (whether or not connected directly to the City's water main or sewer line) must pay the City's required system development fee and the minimum monthly service charge.

F. Administration.

1. Illegal accessory dwelling units in detached structures are required to seek approval for the detached accessory dwelling unit through the conditional use permit, and the accessory dwelling unit must meet all requirements thereof.
2. Legal nonconforming accessory dwelling units may continue to exist as is.

2. Chickens.

A. Purpose. This chapter authorizes the keeping of chickens in the City of Lexington and prescribes the conditions for the keeping of such chickens within an urban residential environment. It also seeks to protect the residential integrity of the surrounding neighborhood and health and safety of the chickens.

B. Definitions. The following words and phrases, as used in this subsection, shall have the following meanings:

"Biosecurity measures" means actions, measures and conditions that promote sanitation and the prevention of disease related to the keeping and maintaining and handling of a chicken or chickens, including: the provision and periodic replacement of dry and clean litter for chicken litter; the disposal of chicken litter only in accordance with the provisions of this chapter and other applicable law and otherwise away from any place where chickens or other poultry and wild birds would have access; the provision and maintenance of clean coops and pens and related equipment, with regular, periodic complete cleaning and disinfection; the washing and disinfection of footwear and equipment that may enter pens and coops; and the washing and disinfection of hands and the change of clothing after any contact with a sick or diseased chicken, other poultry, animal or wildlife prior to contact with other chickens.

"Chicken" means female domestic chicken kept pursuant to the provisions of this chapter.

"Chicken litter" means any resulting mixture or combination of chicken excreta, manure, feed, feathers and material from the bedding for chickens.

"Coop" means the structure within a pen that houses chickens and is built and maintained with materials as impenetrable barriers so as to keep chickens confined and secure from other animals, providing space of not less than three square feet per chicken.

"Litter" means shavings and other materials to be used or used as chicken bedding.

"Pen" means an area of property enclosed at all times and on all sides, including the top, with a strong fence of mesh wire and other reliable materials as an impenetrable barrier so as to keep all chickens confined and secure from other animals, having space of not less than eight square feet per chicken.

"Processing of chicken" means slaughtering, cutting, boning, canning, salting, stuffing, or rendering a chicken that was or is kept or maintained on property pursuant to the provisions of this chapter.

"Property" means an area of land, including any buildings and structures located thereon, in the City of Lexington, Virginia, and owned legally or equitably by a person, regardless of ownership titling of interests, or used under a lease or otherwise by a person(s) for the keeping of chickens.

"Rooster" means an adult male domestic chicken.

"Sanitary conditions" mean conditions at all times of keeping or maintaining or handling of a chicken or chickens and related activities on property in accordance with biosecurity measures and other sanitary-related provisions of this chapter.

"Slaughter" means the act of killing a chicken or chickens.

"Poultry" and "Fowl" mean any domesticated birds raised for food, either meat or eggs feathers or show, including, but not limited to all breeds of chickens, ducks, geese, swans, turkeys, guinea fowl and pigeons.

C. General standards. Any person keeping chickens on property shall be permitted to use the property to do so as an accessory use to a single-family, two-family, or multifamily dwelling upon the following conditions:

(1) No more than six chickens shall be allowed per property, regardless of the number of dwellings or the ownership interests or use arrangements.

(2) Roosters are prohibited.

(3) Chickens shall not be allowed to roam free and they shall be kept in a pen or coop at all times. It shall constitute a violation of this chapter for any person to allow or permit any chicken to roam at large within the City.

(4) All coops and pens shall be deemed accessory structures and shall comply with the rear yard and side yard setback requirement as provided in the Lot Requirements table in Sec. 420-4.7.

(5) All coops and pens shall be located in the rear yard only and in side yards that are not adjacent to a public road. Coops and pens may not be located in a floodplain.

(6) All coops and pens must be kept in a sanitary condition at all times, and must be cleaned on a regular basis to prevent offensive odors.

(7) Offensive odors from chickens, manure, or other chicken-related substances shall not be detectable at any time at the property boundaries.

(8) Biosecurity measures as to the pen, coop and chickens and the property shall be maintained at all times, in addition to compliance with all of the provisions and requirements of the Code of the City of Lexington and Virginia Code and regulation directives regarding care, shelter, sanitation, health, disease, insect and rodent control and as to cruelty, neglect, noise, reasonable control and other such requirements pertaining to, but not limited to, the adequate care and control of animals in the city.

(9) Absent confinement and security and biosecurity measures being maintained at all times in accordance with the provisions of this chapter, one or more chickens may be removed by an animal control officer.

(10) All feed or other material intended for consumption by a chicken shall be placed and maintained in containers impenetrable by mice, rats, rodents, or other animals, and such container shall be equipped and maintained at all times with tightly fitting caps or lids. The presence of mice, rats, rodents, or other animals on the property in or near an area used for the keeping of chickens shall be proof, without more, that such area is maintained in violation of this chapter.

(11) If any chicken litter or waste is disposed of by use of the city refuse system, it must be double plastic-bagged, with at least 1.5 mil rating, and securely closed and deposited in a

city approved receptacle. In addition, any chicken(s) being disposed of shall also be so bagged and securely closed and deposited in a city approved receptacle.

(12) Storage or disposal of litter, waste, and chickens on public land or in or near a sewage, or within 20 feet of a stormwater collection system, facility or stream or pond, water detention facility, or water garden of any kind is strictly prohibited.

(13) There shall be no slaughtering or processing of chickens outdoors.

(14) The sale of chicken eggs on or from the property is prohibited.

(15) No hen kept pursuant to the terms of this section shall be deemed a companion animal per Section 3.2-6500 of the Code of Virginia.

(16) All coops and pens located in an historic district must be reviewed and approved by the Architectural Review Board only in those circumstances where the coop and/or pen are or will be subject to public view from a public street, public way or public place.

D. Administration. The following pertains to the permit process for keeping chickens and, when necessary, the revocation of such permit:

(1) It shall be unlawful for any persons to keep one or more chickens on property unless the person has been issued a permit for such by the zoning administrator. The application, which the zoning administrator is authorized to promulgate, must, at a minimum, identify the property by address and parcel ID; include a sketch showing the area where the chickens will be housed and all types and sizes of enclosures in which the chickens will be kept; and show all property dimensions and setbacks. Once a one-time zoning permit fee has been paid and the site and enclosures have been inspected and approved by the city's zoning administrator, and the application approved, a permit may be issued. No permit shall be issued to any person or as to any property as to which taxes, fees or other charges owed to the city have not been paid and are in arrears.

(2) The permit applicant must be the owner of the property or must have and submit written consent of the owner of the property as part of the permit application to keep chickens on the property. Upon written notice of the property owner's withdrawal or cancellation or termination of such approval, the permit shall be revoked by the zoning administrator.

(3) If the permit holder is convicted of any city or state code violation associated with the keeping of chickens, the permit shall be revoked.

(4) In the event of the zoning administrator receiving and verifying three credible complaints of violation of any provision of this chapter and after notice given of such to the permit holder, the permit may be revoked.

(5) Upon revocation of the permit, chickens must be removed within 30 days or be subject to removal. Any person(s) so having a permit revoked shall not be allowed, at any time, to make application for another permit for five years.

(6) Upon a finding by the zoning administrator that there is warning or equivalent notice or advisory or guidance issued by federal or state authorities regarding a present or forecasted substantial threat of the potential transmission or spread of avian influenza or other poultry disease, no further permits shall be issued until such time that, by similar notice or advisory

or guidance, the threat has been recognized by federal or state authorities as having been eliminated.

E. Existing use at the time of enactment. Notwithstanding the foregoing provisions of this chapter, a person whose use of property involves chickens being kept at the time of enactment of the provisions of this chapter shall have a period of 60 days from such date of enactment to comply with the requirements of this chapter.

F. Fee. The one-time fee for application for a permit to keep chickens shall be twenty-five dollars ($25). If the use is discontinued by the applicant for a period of more than two years, a new permit process, and a new permit fee will be required.

3. Cottage Housing

A. Purpose and Intent.

The purpose of this subchapter is to establish standards for cottage housing developments. The cottage housing development design standards contained in this article are intended to create a small community of cottages, for smaller households and of no more than three bedrooms, oriented around open space that is pedestrian-oriented and minimizes the visibility of off-street parking. The cottage housing development design standards are intended to ensure the inclusion of pedestrian amenities, maintain traditional cottage amenities and proportions, and ensure that cottage housing developments contribute to the overall community character. City Council may consider minor deviations to these design standards provided the overall objectives of this article are met. Cottage housing allows higher residential density than is permitted in the underlying zoning district. This increased density is possible through the use of smaller than average dwelling unit sizes, clustered parking, and site design standards. The purposes of this subchapter are as follows:

1. To increase the supply and variety of housing choices available in the city to better meet the needs of residents, especially those in smaller households.

2. To encourage development of attractive infill residential communities that are compatible with surrounding residential uses.

3. To enhance the aesthetic appeal of new cottage housing development by encouraging a variety of home sizes and heights, in an architecturally cohesive development.

4. To provide a cottage design that encourages community interaction through usable front porches while maintaining a resident's privacy within the home.

5. To encourage site design for the preservation of existing large native tree species in order to provide habitat for wildlife, protect biodiversity, and enhance the environmental quality of the development.

6. To provide a site design that fosters community interaction, a sense of safety, and connection to the environment by orienting cottages around accessible, usable, common open space while reducing the dominance of vehicles on the site.

7. To encourage connectivity to surrounding areas that enables neighborhood interaction, security, and a sense of community.

8. To enhance the aesthetic appeal of new cottage housing development by requiring the undergrounding of all utilities.

B. Density, Number of Cottage Housing Units and Minimum Lot Area.

1. In cottage housing developments, no cottage shall contain more than three bedrooms, and the permitted densities shall be as follows:

Zoning District	Maximum Cottage Density	Minimum Number of Cottages per Cottage Housing Development	Maximum number of Cottages per Cottage Housing Development	Minimum Lot Size (accommodates 4 cottages)
R-1 cottages	1 cottage per 4,000 sf	4	12	16,000 sf
R-2 cottages	1 cottage per 7,500 sf	4	12	30,000 sf
R-LC cottages	1 cottage per 2,500 sf	4	12	16,000 sf
R-M cottages	1 cottage per 2,000 sf	4	18	16,000 sf

C. Existing Nonconforming Structures and Accessory Two-Family Dwelling Units.

1. On a lot to be used for a cottage housing development, an existing detached single-family dwelling, which may be nonconforming with respect to the standards of this article, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be considered a cottage for the purpose of calculating the maximum permitted cottage density.

    a. Nonconforming dwelling units may be modified to be more consistent with this article. However the building ground floor area or total floor area may not be increased greater than permitted by Section 420-11.1.3.G.

2. All residential units in a cottage housing development count towards the maximum permitted density. An existing accessory dwelling unit may be counted as a cottage unit if the property is developed subject to the provisions of this article. New accessory dwelling units are not permitted in cottage housing developments.

D. Building Height.

No building in the proposed development will exceed 2 stories nor be more than 25 feet in height.

E. Variation in Building Design.

1. Objective. Cottage housing development structures shall provide a variety of cottage designs and visual interest by using a combination of building elements, features and treatments in cottages as well as garages. Cottage housing developments are meant to be meaningfully integrated into the broader community, to create a common space for the cottage community, and to maintain private space for the residents of the cottage units. The street-facing facades of cottages in a cottage housing development will contribute to the neighborhood by including attractive design details such as windows, changes in materials, and views of front doors or porches. The main entries of some cottages will be visible from the adjacent streets to provide a visual pedestrian connection with the surrounding neighborhood. The following building design requirements must be met, at a minimum:

    a. Street facing facades and those facing common or community areas shall not have blank walls and shall incorporate windows, which may include bay windows, and one or both of the following:

        (1) Changes in exterior material or paint color; and/or

        (2) Building modulation with a depth measuring at least one foot.

    b. Roofs in cottage housing developments shall have eaves to efficiently shed rain and provide rain protection for exterior walls. Eaves of at least 12 inches shall be provided on all cottage structures on all sides of each building.

    c. The cottage housing development should contribute to the neighborhood by including design details that provide a visual connection between the development and the immediate surrounding residential neighborhood.

    d. Units and other buildings shall be oriented toward each other or a common area as far as reasonably practicable so as to create a sense of community within the cottage housing development.

    e. Variation in design, material or colors between adjacent cottages is required to create distinct cottages within a development.

    f. Transition in materials on a wall surface, such as shingle or lap siding, shall be required to have a material separation, such as a trim band board.

    g. Staggered cottage orientations, window locations, landscaping, or other similar techniques should be used to support privacy.

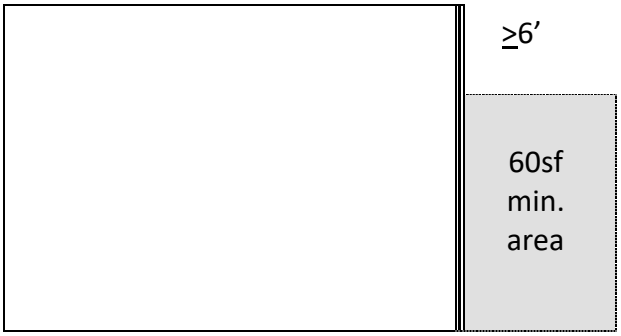
F. Covered Main Entry Porches.

1. Objective. All residences in cottage housing developments shall be provided with a covered main entry porch to create a private outdoor space protected from the weather and provide a transition from the interior private residential space to the semi-private outdoor space. Covered porches shall be usable both in design and dimension. The following porch requirements must be met, at a minimum:

    a. Cottage homes shall have a covered main entry porch with a floor area measuring at least 60 square feet in size.

b. Porches may be screened, but shall not be enclosed by walls or glass windows.

c. The floor of the covered main entry porch shall have minimum dimensions of not less than six feet in any direction (length or width).



G. Cottage Floor Area.

1. Objective. Limiting the maximum square footage of residences in cottage housing developments is necessary to prevent overbuilding of the site and to not exceed available off-street parking. The following requirements must be met, at a minimum:

a. The maximum ground floor gross area for an individual principal structure in a cottage housing development shall be as follows:

(1) For one-story units, the ground floor area may not exceed 900 square feet.

(2) For one and a half or two-story units, the ground floor area may not exceed 750 square feet with an upper level of no more than 50 percent of the gross floor area of the main level (i.e. a maximum of 1,125 square feet).

b. The square footage of required porches shall not be included in the floor area calculation.

H. Yards – Building Setbacks from Exterior Lot Lines.

1. Minimum yard requirements.

For cottages and community buildings (i.e., community guest houses, club houses, etc.): 20 feet from a public right-of-way, 10 feet from a side property line, 20 feet from a rear property line; provided however, that where the cottage housing development site is adjacent to a residential zoning district, side yard setbacks for cottages or community buildings shall be increased from ten to 15 feet to provide sufficient space for the landscape buffer.

	R-O-W	Side	Side adjacent to Res. zoning	Rear
Building Setback	20'	10'	15'	20'

I. Building Separation.

1. Building separation. Structures within cottage housing developments shall observe minimum setbacks from other cottage housing development structures to avoid overcrowding the site and to maintain a sense of privacy within the cottages themselves. The following building separation requirements must be met, at a minimum:

   a. All buildings within a cottage housing development shall maintain a minimum separation of 10 feet from the other cottages, measured from the nearest point of the exterior walls.

   b. Accessory buildings shall comply with building code requirements for separation from noncottage structures.

J. Common Open Space.

1. Objective. Open space that is commonly owned by all members of a cottage housing development is an important feature of any site design. It is intended that the open space be adequately sized and centrally located with individual cottage entrances oriented towards the open space. The following common open space requirements must be met:

   a. Common Open Space. A minimum of 400 square feet per cottage unit of common open space is required. Parking areas, yard setbacks, spaces between buildings of 10 feet or less in width, private open space, and driveways do not qualify as common open space.

   b. Proximity to Common Open Space.
      (1) At least 50 percent of the cottage units shall abut a common open space. All of the cottage units shall be within 60 feet walking distance measured from the nearest entrance of the cottage along the shortest safe walking route to the nearest point of the common open space. The common open space shall have cottages abutting at least two sides.

      (2) For the purposes of cottage housing, “common open space” shall be the central space that may be used by all occupants of the cottage housing development.

   c. Other amenities.
      (1) If the proposed development includes a guest house, club house or similar structure ("community building"), such community building shall be available for the common use of all residents within the development. Community buildings may include a meeting room, guest room (which shall not include kitchen facilities) for stays of 14 days or less, or kitchen facilities to facilitate social functions of the owners’ association. A community building that is available to all residents shall not be counted as a dwelling unit and no guest staying there shall be a city resident by virtue of staying there.

      (2) The proposed development shall have sidewalks along all public streets adjacent to the development where sidewalks presently exist on the same side of the block or where safety considerations such as significant vehicular traffic or the need for safe pedestrian pathways to nearby public uses require them, such as schools, churches,

parks, public transportation stops, and shopping; and a system of interior walkways that connects each cottage to the others and the parking area, and to the sidewalks abutting adjacent public streets, where applicable.

K. Private Open Space.

1. Objective. Each residential unit in a cottage housing development shall be provided an area of private open space. The private open space shall separate the main entrance to the cottage from the common open space to create a sense of privacy and a small but pleasant private yard area. If the private open space abuts the common open space it shall be separated from the common open space with a small hedge, picket fence, or other similar visual separation to create a sense of separate ownership. The following private open space requirements must be met, at a minimum:

    a. Each cottage unit shall be provided with a minimum of 200 square feet of usable private open space directly contiguous to and accessed from each cottage.

    b. No dimension of the private open space shall be less than 8 feet.

    c. Required porch areas may be counted as private open space.

    d. Required perimeter landscaping shall not be counted as private open space.

L. Trees and Vegetation.

1. Objective. Cottage housing developments should be designed to incorporate existing trees to the extent possible with an emphasis on native species. New trees and vegetation should be located to create amenities in the common open space and private open space, to provide shade where appropriate, to create separation between buildings when desired, and to screen and soften the perimeter of parking areas and street facing sides of cottage housing developments. Native species of trees and plants are recommended.

M. Stormwater Low Impact Development Techniques.

1. Objective. Cottage housing developments shall be designed to take advantage of open space and landscaped features to utilize stormwater low impact development techniques including natural filtration and on-site infiltration of stormwater. The following low impact techniques are recommended:

    a. Low impact development techniques for stormwater management should be used wherever possible. Such techniques may include the use of pervious pavers in parking areas and for walkways, directing roof drains and parking lot runoff to rain gardens, landscape beds, green or living roofs, and the use of rain barrels.

    b. Cottages should be located so as to maximize natural stormwater functions.

N. Off-Street Parking.

1. Objective. Off-street parking space requirements for cottage housing developments shall be less than normally required for detached single-family residences. These reduced standards are based upon the cottages being smaller than average detached single-family homes and on average containing fewer occupants. Off-street parking shall be located and designed to be less visible from frontage streets than the cottages themselves. Off-street parking shall be designed to maintain a pedestrian character for the overall cottage housing development. Clustering parking to the side or rear of a cottage project will most often best accomplish these goals. However, on a site-specific basis, design solutions other than

clustering may be found to meet this objective. Parking areas shall be attractively landscaped to screen parking from adjacent properties and street rights-of-way and shall meet applicable parking lot landscape standards.

a. Parking Ratios.

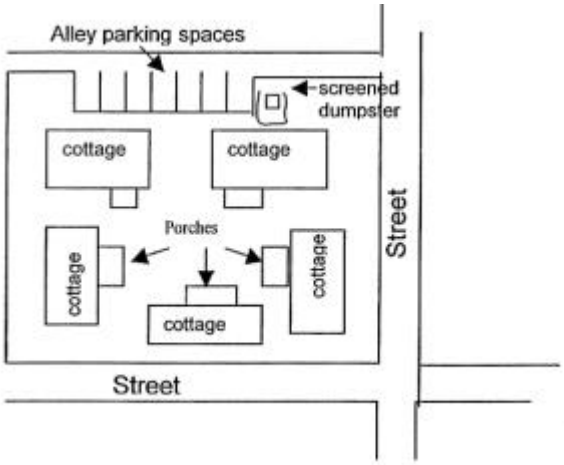
Number of Bedrooms per Cottage or Nonconforming Dwelling Unit	Parking Spaces Required per Cottage or Nonconforming Dwelling Unit
Studio or one bedroom unit	1.25 parking spaces
Two bedroom unit	1.5 parking spaces
Three or more bedroom unit or existing nonconforming single-family residence	2 parking spaces

b. Off-Street Parking Location. Parking shall be located on the cottage housing development property. Off-street parking lots shall be located to the side or rear of the cottage housing development (see illustrations below). Parking lots shall not be located between the cottage housing development and the primary street frontage.

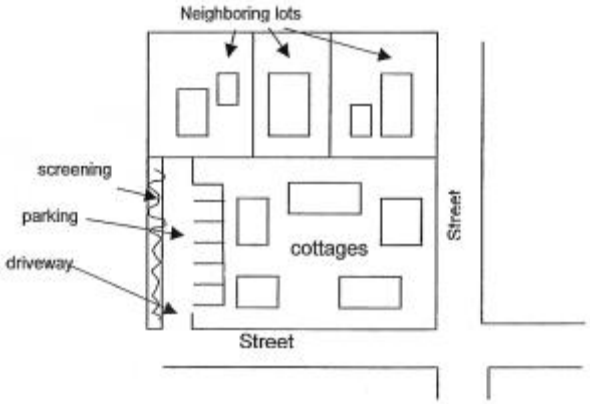
(1) Off-Street Parking Screening. Off-street parking may be located in or under a noncottage parking structure (such as a single or multi-auto carport or garage), but such structures shall not be attached to individual cottages. Uncovered parking is also permitted; provided, that off-street parking shall be screened from direct street view from one or more street facades by garage doors, or by a fence and landscaping.

(2) Preferred locations for parking, in descending order of preference, are as follows:

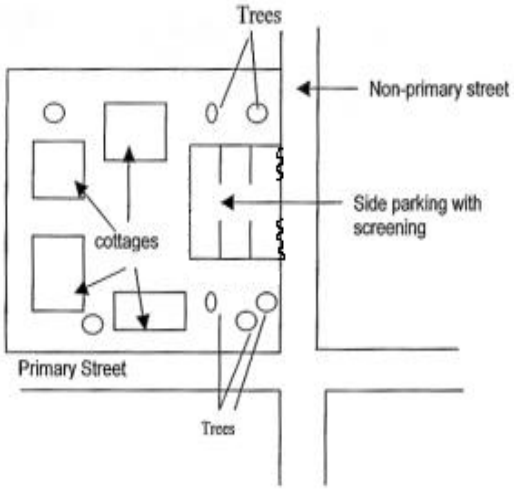
(a) To the rear of cottage housing units accessed by an alley.



(b) To the side of the cottage housing units accessed by a private driveway.



(c) Parking on the side (nonprimary street) screened from the side street by either garage doors, landscaping, and/or fencing.



c. Parking Lot Landscaping. Parking lot landscaping shall comply with the requirements of Sec 420-14.7.

d. Garages. Parking provided in garages shall meet the following standards:

(1) Garages shall meet location and parking access standards set forth in subsection b. of this section.

(2) Garage elevations visible from a public street shall be designed to minimize visual impact through the use of fencing, lattices, landscaping, or other screening methods.

(3) Garages shall use materials and architectural design elements that are consistent with the architecture of the cottages.

(4) Garages shall not be attached to cottages and shall be a minimum of eight feet from a cottage.

(5) Up to four garages may be attached to one another.

O. Solid Waste Collection.

1. Objective. Similar to off-street parking, the staging area for the collection of solid waste shall be located and designed to be less visible from frontage streets than the cottages themselves. Staging areas for the collection of solid waste shall be attractively landscaped

to screen solid waste collection areas from adjacent properties and the street rights-of-way. The following solid waste collection requirements must be met:

a. Solid waste bins or dumpster shall be placed along one side of the access drive, provided placement does not interfere with vehicular access and circulation.

b. Any conditional use permit application for a cottage housing development requires written confirmation from the Lexington Department of Public Works confirming a) the location of the bins/dumpster is acceptable, and b) confirming any access drive is designed to minimum roadway standards.

c. The City prefers any Cottage Housing Development utilize a dumpster for the collection of solid waste, however bins may be permitted by the Department of Public Works for Cottage Housing developments containing fewer than half of the maximum number of cottages allowed.

d. Staging areas for the collection of solid waste shall not be placed in the front yard setback area (or along a street frontage).

e. Staging areas for the collection of solid waste shall be architecturally screened and/or screened with landscaping so as to mask their appearance to residents, adjacent properties, and the public right-of-way.

P. Mailboxes.

1. Objective. Cluster mailboxes or other appropriate mailboxes must be safely located so that customers are not required to travel an unreasonable distance to obtain their mail and so that there is sufficient access to mailbox locations with adequate space for carriers to deliver and customers to retrieve the mail.

a. Mailboxes in new cottage housing developments shall conform to the requirements of the United States Postal Service.

b. Any conditional use permit application for a cottage housing development requires written confirmation from the local Postmaster confirming a) the acceptability of the type of mailbox to be utilized (i.e. Cluster Box Units or other appropriate mailboxes) and b) the location of the mailboxes.

Q. Fire-Lane Access and Turnaround Provisions.

1. Objective. Cottage housing developments shall be designed so as to allow for the safe and unobstructed access to individual dwellings by emergency responders (i.e., fire, rescue, police), for the purposes of protecting life, property and overall public safety.

a. Fire apparatus access roads shall be in accordance with the Virginia Statewide Fire Prevention Code, as amended.

R. Exterior Lighting and Noise Minimization.

1. Objective. Cottage housing developments should be designed to minimize light and noise impacts both within the development and to adjacent properties. The following light and noise requirements must be met:

a. Where provided, exterior lighting shall be mounted as low as possible, pointed downward, and the light source shall be shielded from direct observation from above, adjacent properties, and public rights-of-way. Lighting “spillover” to adjacent properties shall be avoided. Additional exterior lighting requirements are provided in Sec. 420-15.

b. Mechanical and utility equipment for cottage housing developments shall be designed and appropriately screened to cause little or no visual and/or noise impacts within the development and to adjacent properties. Preferred locations are abutting alleys, access drives, within, or under buildings, underground, or other locations away from the public right-of-way. Equipment shall not intrude into required common open space or pedestrian pathways.

S. Fences and Walls.

1. Front yard fences and walls located within the required minimum front yard setback shall be a maximum of three feet, six inches high and shall be no more than 60 percent opaque.

2. Private Open Space Fences. Fences delineating private open space are optional and shall be a maximum of three feet, six inches high.

3. Materials. Fences and walls shall be constructed of wood, wrought iron, brick, stone, or other high quality material. All chain link, electric, razor wire, and barbed wire fences, and other similar types of security fences are prohibited.

T. Ownership and Residential Use of Cottages.

1. All cottage housing developments shall be developed as residential condominiums, pursuant to the provisions found in Chapter 19, Title 55.1, of the Code of Virginia (1950), et seq., known commonly as the "The Virginia Condominium Act." Appropriate documentation of formal legal ownership of the development shall be recorded with the Commonwealth of Virginia, the Rockbridge Circuit Court Clerk, and the Commissioner of Revenue's office with the City of Lexington.

a. Cottages are for residential use only and may not be operated as short term rental accommodations.

4. Dish antennas.

Additional standards in all Residential districts.

A. Communication antennas, commonly called "dish" antennas, which do not comply with the restrictions listed below may be allowed with conditional use permits, subject to the applicant's ability to satisfactorily mitigate negative aesthetic impacts on adjoining properties. Dish antennas shall be permitted in all districts but shall be limited to one exterior antenna per parcel except with conditional use permit.

B. Ground-mounted antennas shall be limited to the rear yard, and in the case of a corner lot no antenna shall be nearer than 25 feet to the side street adjacent to the property.

C. No ground-mounted antenna shall exceed the main building in height.

D. Roof-mounted antennas, when designated for that purpose, shall be permitted, except that a roof- mounted antenna shall not be more than 48 inches in diameter and shall not be visible from any street.

E. Antennas shall be permanently and securely installed.

5. Dwellings.

Additional standards in the C-1 district.

A. Dwelling units shall be allowed by-right on the second floor or any higher floor.

B. Dwelling units occupying the first floor of any structure shall only be allowed with a conditional use permit.

1. First floor residential units should not be visible from a public street

2. If the building fronts on a public street, the residential portion of the first floor shall be required to be shielded by office or retail space or a lobby that maintains a commercial appearance.

6. Family Health Care Structures, temporary.

Temporary family health care structures shall be subject to the following standards:

A. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

B. Only one family health care structure shall be allowed on a lot or parcel of land.

C. The structure shall be no more than 300 gross square feet and shall comply with all applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.) and the Uniform Statewide Building Code (§36-97 et seq.).

D. Prior to installing a temporary family health care structure, a permit must be obtained from the City and associated fees paid.

E. Any family health care structure shall comply with all applicable requirements of the Virginia Department of Health.

F. No signage advertising or promoting the existence of the structure shall be permitted on the exterior of the structure or anywhere on the property.

G. Any temporary family health care structure shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired family member receiving services or assistance.

H. The City may revoke the permit if the permit holder violates any provision of this section.

7. Townhouse.

A. No more than eight townhouses shall be constructed contiguously.

B. The facades of individual townhouses within any contiguous row of townhouses shall be sufficiently varied in their materials, design, or appearance as to visually distinguish them as individual dwelling units.

C. Any townhouse shall front on, or be accessed by, a public street.

D. Any provided open space shall be owned and maintained by the developer, until such time as it is turned over to the ownership and maintenance of an approved homeowners' association.

§420-11.2. Civic Uses.

1. Cemeteries.

A. The approval of a cemetery shall include the following uses without further zoning approval required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion and sediment control.

B. Mausoleums, columbaria, chapels, administrative offices, and maintenance storage areas that are shown in the applicant's plan of development shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original plan of development. This subsection shall not supersede any permission adopted pursuant to State Code §15.2-2306.

2. Public maintenance and service facility.
   A. The outside storage for supplies, materials, or heavy equipment must be located in the rear yard and screened from any non-industrial zoned parcels or rights-of-way in accordance with the landscape section of this ordinance.
   B. Outside storage areas shall not exceed thirty-five (35) percent of the total area of the site.

3. Recreation Facility, Public.
   A. General standards: Any outdoor activity area, swimming pool, ball field, or court which adjoins a residential use type shall include screening and buffering in accordance with the landscape section of this ordinance.
   B. Where nighttime lighting is proposed it shall be fully shielded and large evergreen trees shall be required to appropriately screen any adjoining residences. Any such night-time lighting shall be constructed in accordance with the lighting standards set forth in this ordinance.

§420-11.3. Commercial Uses.

1. Automobile repair service.

   All automobile repair services shall meet the following minimum standards:

   A. All vehicles stored on the premises in excess of seventy-two (72) hours shall be placed in a storage yard.
   B. No exterior display or storage of new or used automobile parts is permitted.
   C. There shall be no storage of motor vehicles in landscaped areas or within ten (10) feet of the public road right-of-way.
   D. The use shall be designed to ensure proper functioning of the site in regards to vehicle stacking, circulation, and turning movements.

2. Bed-and-breakfast.

   Bed-and-breakfasts shall be subject to the following minimum standards:

   A. The operator shall hold a valid business license from the City and, where applicable, a permit from the Department of Health.
   B. A registration book must be maintained for one year and be made available for review by the City upon request.
   C. Every room occupied for sleeping purposes shall comply with Uniform Statewide Building Code.
   D. Signage must comply with Article **XIII** of this chapter.
   E. No changes shall be made to the building exterior that would detract from its appearance as a family dwelling.

F. Off-street parking shall be provided in compliance with Article **XII** of this chapter. The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.

G. Bed-and-breakfasts shall only be permitted in existing structures and may not increase the size of the structure, including accessory structures, by more than 25% of the original square footage. Any additions or modifications shall be residential in appearance and compatible with the original structure and surrounding structures and the overall footprint of the structure, and parking shall not be excessive for the size and shape of the lot.

H. Landscaping, buffers and/or fences shall be in compliance with Article **XIV** of this chapter.

I. Bed-and-breakfasts are to be integrated into the residential fabric of the neighborhood in which they are located. A proposed bed-and-breakfast should not affect the integrity or character of the single-family residential neighborhood for which it is proposed.

J. Off-street parking shall be screened from surrounding family residences by landscaping or fencing which is compatible with the neighborhood.

K. Existing structures and landscaping determined to contribute to the character of the neighborhood shall not be removed.

L. Guest rooms shall not have cooking facilities.

M. The maximum stay for a guest shall be 14 days.

N. Bed-and-breakfast establishments are permitted solely to provide lodging and breakfast accommodations. Additional activities, including receptions, parties and other events, are not permitted unless specifically authorized by the conditional use permit. Authorization for additional activities will be based on the suitability of the house and property for hosting such events. Specific consideration will be given to the floor plan of the house, the proximity of the house to neighboring houses, the size of the lot, provisions to buffer the effects of such activities from adjacent property and the ability to provide parking for such events.

O. Whenever there are guests on the property, the owner of a bed-and-breakfast establishment must reside on the property, or alternatively, the owner(s) may live on an immediately adjacent parcel.

P. In R-1, B&B's may only be located along Main, Washington, and Nelson Streets by CUP.

Q. In R-2, B&B's may only be located along South Main Street by CUP.

3. Car Wash.

All car washes shall comply with the following general standards:

A. Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.

B. Car washes shall be constructed in a design similar to the building character of the surrounding area.

C. Parking shall be located behind the front line of the principal building.

D. Any use that has a car wash shall treat the car wash as a primary use

E. No sales, repair, or outside storage of motor vehicles shall be conducted on the site.

4. Commercial outdoor sports and recreation.

A. Commercial outdoor sports and recreation areas shall include screening and buffering in accordance with the landscape section of this ordinance.

B. Where nighttime lighting is proposed, it shall be fully shielded and large evergreen trees shall be required to appropriately screen adjoining residences.

5. Construction sales and service.

Construction sales and services shall be subject to the following general standards:

A. Outdoor storage and/or display of goods, supplies, materials, or heavy equipment shall be located to the rear of the principal building.

B. Outside storage areas shall not exceed twenty-five (25) percent of the total site area.

6. Day care center.

The following general standards shall be applicable to day care centers.

A. All day care centers shall comply with any and all requirements of City and State Codes, including but not limited to, obtaining a zoning permit, maintenance of a City Business License, and maintain a state license in accordance with the State Code, as applicable.

B. Minimum lot size: One half (0.5) acre, except in C-1.

C. Parking, except in C-1. Designated arrival and departure zones shall be located adjacent to the day care center in such a manner that children to not have to cross vehicle traffic aisles to enter or exit the center. Arrival and departure area shall include at least one parking/stacking space per 10 children.

D. Outdoor recreation areas shall be safely separated from all parking, loading, and service areas.

E. Fencing. A fence a minimum of four (4) feet in height shall completely enclose the outdoor recreation area so that children are safely contained.

7. Drive-thru facilities.

The following general standards shall apply to all drive-thru facilities:

A. All drive-thru entrances must be at least 50 feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.

B. Drive-thru facilities shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.

C. Off-street stacking spaces shall be provided in accordance with the following requirements:

1. Stacking spaces shall not interfere with travelway traffic or designated parking spaces.

2. Stacking spaces shall be at a minimum of eighteen (18) feet in length.

3. Stacking spaces shall be located to the side or rear of the principle structure and shall not be adjacent to any street right-of-way.

4. Off-street stacking spaces shall be provided in accordance with the following table:

STACKING SPACE REQUIREMENTS		
TYPE OF ACTIVITY	REQUIRED NUMBER OF STACKING SPACES	START POINT FOR STACKING SPACES
Financial Institutions - automated teller machine	3	Teller machine
Financial Institutions - bank teller lane	3	Teller window/tube
Professional Personal Service - dry-cleaning/laundry	3	Cleaner/laundry window
Retail Sales - pharmacy	3	Pharmacy window
Restaurant	6	Order box/speaker
	4*	Pick-up window
Other	To be determined by City. Such determination shall consider any study prepared by an engineer or other qualified design professional.	
* These spaces are required in addition to the stacking spaces required to be located behind the order box/speaker and shall be located between the pickup window and the order box/speaker.		

8. Entertainment Establishment, adult (Sexually Oriented Business).

A. Purpose. It is a purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The requirements of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

B. Findings and rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in numerous legal cases, the City Council finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, declining property value, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses, including schools, churches, parks, libraries, public recreation areas, and residential areas, to minimize the impact of their secondary effects upon such uses and should be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm, which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

C. Therefore, the following general standards shall apply to all adult entertainment establishments:

(1) Distances specified in this section shall be measured from the property line of one use to the property line of the other. The distance between an adult entertainment establishment and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residential zoning district.

(2) An adult entertainment establishment shall be located at least 500 feet from any religious assembly, education facility, public recreational facility, day care center, public assembly, cultural services, home for adults, life care facility, or residential zoning district in existence on the date on which the establishment obtains its zoning permit.

(3) Any protected use listed in subsection (2) of this section may begin operation within 500 feet of a sexually oriented business only if the owner of the protected use, in addition to any other requirements of this Code, gives the City a written statement that it acknowledges the presence of the sexually oriented business(es) and voluntarily waives the protection of subsection (c) of this section as to the sexually oriented business(es) for as long as the sexually oriented business(es) or any successor thereto remains. This written statement does not waive the protection of this section as to any sexually oriented business established or relocated after the written statement. If a sexually oriented business is discontinued for a period of two years or more, then it must comply with the setback requirements of this section regardless of any such written statements by protected uses.

(4) No adult entertainment establishment shall be located within one thousand (1,000) feet of any adult store or other adult establishment.

(5) No adult entertainment establishment shall display adult media, depictions of specified sexual activities or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others. Window areas shall remain transparent.

(6) Exterior lighting shall be installed in accordance with Article **XV** of this chapter to illuminate the parking area, walkways, and all entrances to the establishment.

(7) Hours of operation shall not extend after 1:00 am.

9. Financial Institutions.

Financial institutions shall comply with the following general standards:

A. Exterior lighting shall be compatible with the surrounding neighborhood.

B. Entrances to the site shall be minimized and located in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

C. Loading areas shall be located as to minimize the impact on the surrounding neighborhood.

10. Funeral home.

All funeral homes shall be subject to the following general standards:

A. The funeral home shall have a buffer between it and any residentially-zoned property abutting or directly across the street from the funeral home use in accordance with the landscape section of this ordinance.

11. Home Occupations.

All home occupations shall be subject to the following general standards:

A. No signs shall be permitted.

B. The area devoted to home occupation(s) shall not exceed 25 percent of the gross floor area of the dwelling unit.

C. There shall be no outdoor storage of home occupation related items.

D. Use shall be conducted as an accessory use and shall not change the character of the dwelling unit nor have any exterior evidence of its use.

E. No merchandise shall be sold on the premises.

F. The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area.

G. The home occupation shall not increase the demand on water, sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses.

H. The equipment used by the home-based business and the operation of the business shall not create any noise, vibration, heat, glare, dust, odor or smoke discernible at the property lines or use or store hazardous materials in excess of quantities permitted in residential structures.

I. The operator of a home occupation use shall secure a City business license, and obtain a home occupation use permit.

J. Approval of a home occupation use shall be revocable at any time by the City because of the failure of the owner or operator of the use covered by the approval to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions imposed in connection with the approval.

K. Approval of a home occupation use shall stand revoked, without any action by the City, if the use authorized has been intentionally abandoned, has ceased for a period of one year, has not commenced within one year of approval, or does not have a current business license.

12. Hotel.

Additional standards in the C-1 district.

A. Parking shall be located behind the front line of the principal building.

B. No guest rooms shall be located on the first floor.

C. The structure shall match the scale and mass of the surrounding structures as determined by the Zoning Administrator.

13. Mini-Warehouse

A. All storage for mini-warehouse storage facilities shall be within a completely enclosed building and the outdoor accessory storage of motor vehicles, trailers, and recreational equipment, etc. on the same site is prohibited.

B. The following uses shall be prohibited:

1. Auctions by tenants, commercial wholesale or retail sales, or miscellaneous or garage sales.

2. The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment.

3. The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment.

4. The storage of flammable, highly combustible, or other hazardous materials.

C. The owner shall post readily visible contact information, including but not limited to name and phone number, on site for appropriate personnel to be reached in case of emergency.

D. Tenant identification signs and advertising signs are prohibited.

E. Accommodations for a live-in manager shall be permitted.

F. The mini-warehouse storage facility shall be a multistory structure designed to emulate multifamily or office buildings; single-story facilities are prohibited.

G. Consideration should be given to incorporating faux windows in the street-facing facades of the upper level storage areas to give the appearance of office space or multifamily units provided, however, that other appropriate design techniques may also be proposed and considered.

H. All access to individual storage units shall be from internal corridors.

I. Access to all buildings shall be monitored by electronic security and/or facility staff at all times.

J. Loading docks and areas shall be from the rear or side of the building but not facing any residentially or Parks & Open Space (P-OS) zoned property, or any public street.

K. Building shall have massing compatible with the scale and intensity of surrounding developments and consist of the following elements:

1. Buildings shall be oriented to the street, with a functional primary entrance on their facades.
2. Blank or mirrored building facades are not allowed.
3. Façades should appear to have between 30 and 70 percent transparency.
4. Façade design facing public rights-of-way shall vary along the street block, as opposed to presenting a single face for the block along all or great extents of the street. Articulation shall occur at least every ⅓ of the length of any building façade.
5. Integrate rooflines and articulate prominent roof tops. The tops of flat-roofed buildings shall be visually articulated, with projections providing visual interest and shadow lines.
6. Primary materials shall include, but are not limited to:
    a. Brick or brick masonry veneer.
    b. Stone.
    c. Integral colored textured concrete block.
    d. Fiber cement panel siding.

14. Office, medical.

The following general standards shall apply to all medical offices.

A. Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

B. Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood.

15. Outdoor Display.

Areas associated with retail uses shall be subject to the following standards:

A. Shall be limited to a maximum of five percent (5%) of the total lot area.

B. Shall not be located in front of (i.e., on the street side of) or on top of the building.

C. All surfaces will be graded and drained as to dispose of all surface water accumulated within the area to a public storm drain or on-site detention at the approval of the City Engineer.

D. Asphalt or concrete walkways or aisles shall be provided to permit all-weather customer access to all areas of the outdoor display.

E. Shall be screened with an opaque fence or wall, and shall not be visible from any public street or adjacent parcel.

F. Walls or fences shall not be less than six (6) feet in height, nor exceed eight (8) feet in height.

G. No sales display may exceed the height of the screening wall or fence.

16. Pawn Shop.

The following general standard shall apply to all pawn shops:

A. No outdoor display of goods or storage shall be permitted.

17. Restaurant, drive-in.

The following general standards shall apply to all drive-in restaurants:

A. Stacking spaces shall not interfere with the travelway traffic or designated parking spaces.

B. Stacking spaces shall be located to the side or rear of the principle structure and shall not be adjacent to any street right-of-way.

C. Six (6) stacking spaces shall be located behind the order speaker and four (4) stacking spaces shall be located between the order speaker and the pickup window.

D. Extended awnings, canopies, or umbrellas are permitted.

18. Restaurant, mobile.

The following additional requirements apply to sales from a mobile restaurant operating on private property or within public spaces or rights of way, except when operating in conjunction with temporary, special events permitted under applicable sections of the City Code:

A. Mobile restaurants must obtain a City Mobile Restaurant permit, and must be inspected and approved by the City at least three business days prior to initial operation *and again prior to annual business license renewal.*

B. Mobile restaurants must maintain a valid business license issued by the City of Lexington and a valid health permit issued by the Virginia Department of Health.

C. A mobile restaurant may operate:

1. on public, commercially zoned property,

2. on private, commercially zoned property with written permission from the owner, or

3. in Jordan's Point Park, Richardson Park or Brewbaker Field Sports Complex with a written agreement with the City of Lexington.

D. No items shall be sold other than food and beverages.

E. No music shall be played that is audible outside of the vehicle.

F. Mobile restaurant vehicles must park in locations or areas as approved in the City Mobile Restaurant permit, and shall not block i) the main entry drive isles or impact pedestrian or vehicular circulation overall, (ii) other access to loading areas, or (iii) emergency access and fire lanes. The Mobile Restaurant must also be positioned at least fifteen (15) feet away from fire hydrants, any fire department connection (FDC), driveway entrances, alleys and handicapped parking spaces.

G. A mobile restaurant may operate for a maximum of six hours between 9am and 9pm Sunday to Thursday and between 9am to 11pm Friday and Saturday (including set-up and break-down) in any one day at any single location. The vehicle and all accessory structures shall be removed each day.

H. No signs may be displayed except 1) those permanently affixed to the vehicle and 2) one, a framed sign not to exceed 4 feet in height and 6 square feet of display for each of the two sides and the sign cannot block any passageways.

I. Trash receptacles shall be provided and all trash, refuse, or recyclables generated by the use shall be properly disposed of off-site by the Mobile Restaurant operator.

J. No liquid wastes shall be discharged from the mobile restaurant.

K. No mobile restaurant shall locate within 50 feet of the entrance to a business that sells food for consumption (determined by measuring from the edge of the Mobile Restaurant to the main public entrance of the restaurant) unless permission of the restaurant owner is provided.

L. No mobile restaurant shall locate within 100 feet of a single family or two-family residential use.

M. Vehicles may be otherwise limited by the City depending on the location or other details of the Mobile Restaurant permit application.

N. A mobile restaurant may operate at any farmer's market held on public or private property, if the food truck vendor is legally parked at the farmer's market and has received written permission from the farmer's market manager and displays such written permission upon request.

O. The operation of the mobile restaurant or use of a generator should not be loud enough to be plainly audible at a distance of one hundred (100) feet away. Excessive complaints about vehicle or generator noise will be grounds for the Administrator to require that the Mobile Restaurant Vendor change location on the site or move to another property.

P. The requirements of this section shall not apply to Mobile Restaurant Vendors at catered events (events where the food is not sold through individual sales but provided to a group pursuant to a catering contract with a single payer).

Q. A Mobile Restaurant permit may be revoked by the Zoning Administrator at any time, due to the failure of the property owner or operator of the Mobile Restaurant permit to observe all requirements for the operation of mobile restaurants. Notice of revocation shall be made in writing to address of record for Mobile Restaurant permit holder. Any person aggrieved by such notice may appeal the revocation to the Board of Zoning Appeals.

19. Retail.

The following general standards shall apply to all retail uses:

A. No outdoor display of goods shall be permitted except during City authorized special events.

20. Shooting range, indoor.

A. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking and appearance. Drop-off areas may be located in the front yard, but shall maintain a residential character and appearance.

B. Exterior lighting shall be compatible with the surrounding neighborhood.

C. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

D. The scale, massing, and building design shall be compatible with the surrounding neighborhood.

21. Shopping center.

The following general standards shall apply to all shopping centers:

B. Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

C. The scale, massing, and building design shall be compatible with surrounding developments. The structures shall be street oriented with pedestrian entrances from the street.

D. No outdoor display of goods shall be permitted.

22. Short Term Residential Rental.

All Short Term Residential Rental Businesses shall comply with the following general standards:

A. Definitions. As used in this article, unless the context requires a different meaning:

Booking transaction means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations, and only one booking transaction is permitted per property, per nightly rental of a short term rental operation.

Guest or transient means a person who occupies a short term rental unit.

Short term rental means a residential dwelling unit that is used or advertised for rent for transient occupancy in increments of fewer than 30 consecutive days. This use type does not include bed-and-breakfast establishments and does not apply to month to month extensions following completion of a year's lease.

Primary resident (or Host) means the owner of the short term rental unit, or lessee of the short term rental unit with a lease agreement that is one year or greater in length, who occupies the property as his or her principal place of residence and domicile. In determining compliance with these regulations, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.

Residential dwelling unit means a residence where one (1) or more persons maintain a household.

Type A rentals means rentals where the host is present during the short term rental and no more than two (2) bedrooms of the short term rental unit are rented.

Type B rentals means all other rentals, including ones where more than two (2) bedrooms of the short term rental unit are rented or the host is not present during the short term rental.

B. Registration and other requirements.

1. No host shall operate a short term rental business without the host first having registered with the Department of Planning and Development in accordance with Sec. 15.2-983 of the Code of Virginia.

2. The Planning and Development department will report all registrations to the Commissioner of Revenue for the collection of the transient lodging tax as set forth in chapter 366, article III of the City Code.

3. The registration form shall include the following information:

   a. The name, telephone number, address, and email address of the host.
   b. A reminder about the importance of having appropriate levels of insurance that covers the homestay unit, the host and the guests.

4. The registration shall be valid January 1st (or from whatever date the registration first occurs) through December 31st of the calendar year, and shall be renewed annually.
5. A log book must be maintained for one (1) year and be made available for review by the City upon request.
6. No signage advertising a short term rental shall be allowed for a short term rental business located in the R-1, R-2, and R-M residential zoning districts. A rental business located in a commercial zoning district (C-1 & C-2) or in the Residential-Light Commercial zoning district (R-LC), where such businesses are permitted, is not limited by the requirements of this subsection.
7. Registration may be revoked if more than three substantiated complaints are received within a one-year period. Revocation is for a minimum of one year but may be permanent at the discretion of the City.
8. A host may only operate one (1) residential dwelling unit in all of the residential zoning districts (R-1, R-2 & R-M) citywide as a short term rental.
9. Any short term rental business in violation of zoning regulations, including operation without registering, are subject to all relevant penalties as set forth by the City.
10. A host is permitted a maximum one hundred and four (104) nights of type A and type B rentals in each calendar year for a short term rental business located in the R-1, R-2, and R-M residential zoning districts. Of these one hundred and four (104) nights of rentals, no more than forty-five (45) nights may be type B rentals. In the required log book, the number of type A and type B rentals shall be listed for all booking transactions. A short term rental business located in a commercial zoning district (C-1 & C-2) or in the Residential-Light Commercial zoning district (R-LC), where such businesses are permitted, is not limited by the requirements of this subsection.
11. In all residential zoning districts, the dwelling unit used for short term rentals must be the host's primary residence, which means that he or she resides there for at least one hundred and eighty five (185) days during each year.
12. The owner of a short term rental unit located in a commercial zoning district (C-1 & C-2) or in the Residential-Light Commercial zoning district (R-LC), where such businesses are permitted, is not required to meet the primary resident requirement.
13. Off-street parking shall be provided in compliance with Article XII of this chapter. The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.
14. Off-street parking may upon the recommendation of the Planning Commission and made part of a conditional use permit by the City Council not be required or may be reduced in number for short term rentals located in the R-1, R-2, R-M, and R-LC zoning districts, provided:
    a. The required off-street parking is provided in a remote parking lot which is within 500 feet measured along lines of public access from the principal use. A remote parking lot to satisfy this requirement for short term rentals shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this article, or

b. The short term rental is located in a Residential Historic District where a streetscape would be marred by off street parking and there is support from adjacent property owners showing agreement to reduce or delete the requirement for off-street parking, or

c. Public parking is provided within 500 feet of the principal use and can reasonably provide the required off street parking.

15. Short term rentals located within an Institutional overlay district and shown on a City approved Master Plan are exempted from Sec. 420-11.3.B.5 through Sec. 420-11.3.B.13.

C. Safety.

1. The City may inspect any short term rental once per year for compliance with applicable building codes.

2. The unit shall meet all applicable sections of the life safety requirements in the building code.

3. Site Address

Building (dwelling) will have an approved address placed in a position that is plainly legible and visible from the street fronting the property. These numbers shall contrast with their background. Address shall be Arabic numbers or alphabetical letters. Numbers shall be minimum of four (4) inches high with a minimum stroke of one half (0.5) inches or as otherwise approved by the fire code official. Structures obscured from street view or access roads in excess of one hundred and fifty (150) feet in length shall additionally post the numerical address at the roadway entrance.

D. Use regulations.

1. No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the short term rental use.

2. The dates for trash and recycling collection shall be posted prominently in the short term rental unit.

3. During each stay at the short term rental unit, a principal guest shall be designated as the contact person for City officials in the event of safety or behavioral issues at the unit. The host shall provide this information upon request to authorized City officials.

4. The host shall not permit occupancy of a short term rental unit for a period of less than overnight.

5. The name and telephone number of the host or the host's designee shall be conspicuously posted within the short term rental unit. The host shall answer calls twenty-four (24) hours a day, seven (7) days a week for the duration of each short term rental to address any problems associated with the short term rental unit.

6. The principal guest of a short term rental unit shall be at least eighteen (18) years of age.

7. The maximum number of adult guests in a short term rental unit is limited to two (2) adults per bedroom.

E. Registration suspension or cancellation.

1. A registration may be suspended or cancelled for the following reasons:

a. Failure to collect and/or remit the transient occupancy tax.

b. Three (3) or more substantiated complaints (including, but not limited to, parking on grass, noise, excess trash) within a twelve-month period.

c. The failure of any short term rental host to maintain his or her principal place of residence or domicile at the dwelling unit (as required in the residential zoning districts) used as a limited residential lodging.

2. Before any suspension or cancellation can be effective, the Zoning Administrator shall give written notice to the short term rental host. The notice of suspension or cancellation issued under the provisions of this chapter shall contain:

   a. A description of the violation(s) constituting the basis of the suspension or cancellation;

   b. If applicable, a statement of acts necessary to correct the violation; and

   c. A statement that if no written response by the host is received by the Planning Department within thirty (30) days from the date of the notice, the registration will be suspended or cancelled.

3. The notice shall be given to the host by delivering a copy of the notice in person. If the host cannot be found, such notice shall be sent to the address of record by:

   a. Certified mail or e-mail to the addresses in the registration form; and

   b. A copy of the notice shall be posted in a conspicuous place on the premises.

4. A copy of the notice will be provided to the Commissioner of Revenue to advise the registration may be revoked.

5. Any determination made by the Zoning Administrator may be appealed to the Board of Zoning Appeals in accordance with Article XIX.

F. Penalty.

It shall be unlawful to operate a short term rental:

1. without obtaining a registration as required by this article,

2. after a registration has been suspended or cancelled, or

3. in violation of any other requirement of this article.

4. The penalty shall be a fine of five hundred dollars ($500.00) per occurrence in accordance with Sec. 15.2-983 of the Code of Virginia for an operator required to register who offers for short-term rental a property that is not registered.

G. Exemptions.

1. The Provisions of this section, and the requirements described herein, shall not apply to a residential unit participating in a charitable fund raising effort wherein a residential dwelling unit is occupied by transient guests who, in return for their stay, donate directly to a charity. In order for a residential dwelling unit to receive this exemption, the charitable qualifying event is:

   a. conducted by a recognized 501(c) organization that is based in the community or has a chapter or affiliate based in the community;

   b. the qualifying event is part of a local community wide campaign; and,

   c. payment is made from the guest directly to the recognized non-profit organization. A residential dwelling unit may claim this exemption once per calendar year for a single charitable event with the related charitable rental lasting no more than three consecutive nights.

23. Store, adult.

The following general standards shall apply to all adult stores:

A. Distances specified in this section shall be measured from the property line of one use to the property line of the other. The distance between an adult store and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residential zoning district.

B. An adult store shall be located at least five (500) feet from any religious assembly, education facility, public recreational facility, day care center, public assembly, cultural services, home for adults, life care facility, or residential zoning district in existence on the date on which the store obtains its zoning permit.

C. No adult store shall be located within one thousand (1,000) feet of any adult store or other adult establishment.

D. No adult store shall display adult media, depictions of specified sexual activities or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others. Window areas shall remain transparent.

24. Store, grocery.

All grocery stores shall be subject to the following general standards:

A. Entrances to the site shall be minimized and located in such a way as to maximize safety, ensure efficient traffic circulation and minimize the impact upon the surrounding neighborhood.

Additional standards for the C-1 district:

A. Parking shall be located behind the front line of the principal building.

B. Any new buildings shall be street-oriented with pedestrian entrances from the street, and compatible with the surrounding development.

C. Lighting shall be consistent with the surrounding neighborhood.

25. Store, liquor.

The following general standards shall apply to all liquor stores:

A. A proposed liquor store shall not be located within 500 feet of an existing liquor store. This distance shall be measured from the property line of one business to the property line of the other.

B. Parking shall be located behind the front line of the principal building.

C. Exterior lighting shall be compatible with the surrounding neighborhood.

D. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

E. The scale, massing, and building design shall be compatible with the surrounding neighborhood.

26. Vehicle Fueling Station.

Vehicle fueling stations shall be subject to the following general standards:

A. Applicants shall demonstrate that the use will be compatible with the neighborhood with regards to traffic circulation, parking, and appearance and size of structures.

B. Entrances to the site shall be minimized and located in a manner promoting safe and efficient traffic circulating while minimizing the impact on the surrounding neighborhood.

C. Any canopy over the fuel pumps shall have the same roof shape and exterior materials as the primary structure.

D. Dumpsters shall be located so as to minimize view from off-site areas and shall be fully screened by a wall constructed of the same material and color as the principal structure.

E. The Zoning Administrator may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.

27. Wholesale sales.

A. Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood.

B. Parking shall be located behind the front line of the principal building.

§420-11.4. Industrial Uses.

1. Industrial, light.

A. The use, storage, and disposal of hazardous materials shall meet all applicable federal, state, and local codes.

B. Accessory outdoor storage up to 10% of the building area may be permitted. Outdoor storage shall be located to the rear of the principal building.

§420-11.5. Miscellaneous Uses.

1. Parking Facility.

The following general standards shall apply to all parking facilities:

A. No motor vehicle work shall be permitted in association with a parking facility except under emergency service work.

B. Parking shall be the principal use of all parking facilities. Spaces may be rented for parking but no other business of any kind shall be conducted in the structure except City sanctioned farmer's markets.

2. Portable buildings.

A. Portable buildings, except those specifically exempted below, may be located on a lot only upon the issuance of a conditional use permit, in accordance with **§420-1.11**. Where a lot is used for retail, commercial or industrial purposes, one or more such buildings may be located on a lot. Portable buildings must be used as a subordinate building, the use of which is incidental to and used only in conjunction with the main building's use. Such buildings must conform to the yard requirements for the zoning district in which they are located. The placement of such a building shall require an entrance corridor certificate of appropriateness if it is to be located in an Entrance Corridor Overlay District and a certificate of appropriateness if it is to be located in the Downtown Historic Preservation District. Such a building is for temporary use only and must be replaced with

a permanent building or removed within two years. One extension may be requested and approved for not more than one additional year.

B. Exemptions:

1. In all residential districts portable buildings may be used as accessory structures, the use of which is incidental to and used only in conjunction with the primary structure.

2. Contractor's temporary office and storage sheds incidental to a construction project. Such buildings shall be placed on the construction site only after a building permit has been issued for on-site construction work. When such construction work is completed or abandoned, or when the building permit expires or is revoked, such offices or sheds shall be removed.

3. Temporary restroom facilities.

C. Bond required. A cash or other bond may be required to cover the cost of removal and disposal of a temporary building when the conditional use permit expires.

3. Portable Storage Container

Notwithstanding any contrary provision of this ordinance, portable storage containers located outside of a fully-enclosed building or structure shall be allowed only in residential and commercial zoning districts subject to the following restrictions:

A. In residential districts including the R-LC zoning district, a maximum of one (1) portable storage container may be allowed on a lot for a period no longer than sixty (60) days in any consecutive twelve-month period. In any case where there is a change in ownership of the lot, the date upon which title to the lot is conveyed shall begin a new 12-month period.

B. Any residentially zoned parcel with one (1) portable storage container on the lot for less than fifteen (15) calendar days shall not be required to obtain a zoning permit if the zoning administrator has advance notice of placement. A zoning permit issued by the zoning administrator is required for any portable storage container located on a lot for more than fifteen (15) calendar days but no more than sixty (60) calendar days. There will be no fee for such permit and the permit shall be displayed on the exterior of the portable storage unit at all times.

C. In the commercial zoning districts a maximum of one (1) portable storage container may be allowed on a lot for a period no longer than sixty (60) days in any consecutive twelve-month period. In any case where there is a change in ownership of the lot, the date upon which title to the lot is conveyed shall begin a new 12-month period.

D. Any commercially zoned parcel with one (1) portable storage container on the lot for less than thirty (30) calendar days shall not be required to obtain a zoning permit if the zoning administrator has advance notice of placement. A zoning permit issued by the zoning administrator is required for any portable storage container located on a lot for more than thirty (30) calendar days but no more than sixty (60) calendar days. There will be no fee for such permit and the permit shall be displayed on the exterior of the portable storage unit at all times.

E. The portable storage container must be placed a minimum of five (5) feet from the property line, or on the driveway of the lot. One (1) portable storage container may be placed in a legal parking place on the street for a period no longer than fifteen (15) days with the approval of the Public Works Department and the Fire Department when space is not available on site.

F. No portable storage container located in a residential district including the R-LC zoning district shall have dimensions greater than twenty (20) in length, eight (8) feet in width or eight (8) feet in height.

G. Other than the required city zoning permit, no sign shall be attached to a portable storage container except to provide the contact information of the container provider.

H. Temporary portable storage containers shall only be permitted on lots with a principal building or structure.

I. Temporary portable storage containers shall not be used in conjunction with a Class A or Class B home occupation or used as a principal use or principal building or structure.

J. Temporary portable storage containers shall not be inhabited.

K. Temporary portable storage containers cannot be located in the floodway or floodplain overlay district.

L. The container shall not be connected to utilities.

M. The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited;

N. All portable storage containers shall be maintained in a condition free from rust, peeling paint and other visible forms of deterioration.

O. The provisions of this subsection shall not apply to properties where construction is actively occurring under a valid building permit.

4. Communication Tower.

A. Definitions and Scope

1. Communication tower is defined as a tower or antenna which supports communication (broadcasting and/or receiving) equipment utilized by commercial, government or other corporate, public and quasi-public users. Towers include radio, television, cellular telephone, personal communication services (PCS), microwave, internet, and other similar communications facilities, satellite earth station and building-supported antennas. The towers may be self-supporting or guy-supported. The regulations set out below do not apply to the following: (1) amateur radio communications antennas under 75 feet in height owned and operated by a federally licensed amateur radio station operator; (2) antennas and dishes limited exclusively to home use; and (3) towers owned by the city. All communication towers shall be classified as an administrative review-eligible or standard process project, as defined below.

a. Project means (i) the installation or construction by a wireless services provider or wireless infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless service provider or wireless infrastructure provider on an existing structure to which the provisions of subsection 420-11.5.4.B.2.c of this ordinance apply.

(1) Administrative review-eligible project means a project that provides for:

(a) The installation or construction of a new wireless support structure, as defined below, that is no more than fifty (50) feet above ground level, provided that the structure with attached wireless facilities is (i) not more than ten (10) feet above the tallest existing utility pole located within five hundred (500) feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than thirty-five (35) percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) the new wireless support structure is designed to support small cell facilities; or

(b) The co-location on any existing structure of a wireless facility that is not a small cell facility.

(2) Standard process project means any project other than an administrative review-eligible project. All such projects shall require a conditional use permit in accordance with this ordinance.

2. Antenna means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

3. Base station means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

4. Co-locate means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. For purposes of this ordinance, "co-location" shall have the same meaning.

5. Department means the Department of Transportation.

6. Existing structure means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. “Existing structure” includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers. It shall also include the replacement of a structure, located within a six (6) foot perimeter of the original placement of the structure, with structures that are the same size or smaller.

7. Micro-wireless facility is defined as a small cell facility that is no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and that has an exterior antenna, if any, no longer than eleven (11) inches.

8. New structure means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

9. Small cell facility means a wireless facility that meets both of the following qualifications:

    a. each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and 2) all other wireless equipment associated with the facility has a cumulative; and

    b. all other wireless equipment associated with the facility has a cumulative volume of no more than twenty eight (28) cubic feet, or such higher limit as established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume calculation: electric meters, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

10. Utility pole means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

11. "Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

12. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

13. "Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

14. "Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

15. "Wireless services provider" means a provider of wireless services.

16. Wireless support structure means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

B. Conditional Use Permit required

1. Except as provided in subsection D. below, all communication towers shall be handled as standard process projects and shall require a conditional use permit, obtained in accordance

with the provisions of Article 1 of this ordinance. Standard process projects shall be reviewed pursuant to the criteria put forth in Virginia Code Section 15.2-2316.4:2, as amended. The processing of a standard process project application shall be subject to the following parameters:

a. Within ten (10) days after receipt of a conditional use permit application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. All such applications shall be approved or denied within the following specified time periods:

   (1) For a new structure, as defined by this ordinance, within the lesser of one hundred and fifty (150) days of receipt of the completed application or the period required by federal law for such approval or disapproval; or

   (2) For the co-location of any wireless facility that is not a small cell facility within the lesser of ninety (90) days of receipt of the completed application or the period required by federal law for such approval or disapproval.

   (3) Any period specified above for the city council to approve or disapprove an application may be extended by mutual agreement between the applicant and the city.

b. A completed conditional use permit application shall be deemed approved if the city council fails to approve or disapprove the application within the periods specified above or any agreed extension thereof.

c. Any disapproval of the conditional use permit application shall be in writing and accompanied by an explanation for the disapproval, and the locality shall identify any modifications that could be made to the application which would permit the city to approve the proposed project. City council's action on disapproval of an application submitted under this section shall:

   (1) Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and

   (2) Be supported by substantial record evidence contained in a written record publicly released within thirty (30) days following the disapproval.

d. The fee for processing standard process projects shall be five hundred dollars ($500.00), which shall not exceed the actual direct costs to process the application, including permits and inspection, in accordance with Virginia Code Section 15.2-2316.4:1, as amended.

e. Nothing in this section shall prohibit the denial of an application because:

   (1) The proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds fifty (50) feet above ground level; provided that such denial does not unreasonably discriminate against the applicant; or

   (2) The proposed location of the new structure or co-location of a wireless facility is in an area where all cable and public utility facilities are required or encouraged to be placed underground in accordance with Virginia Code Section 15.2-2316.4:2, as amended;

(3) The applicant did not provide written notice to adjacent landowners at least 15 days before it applies to locate a new structure, or

(4) Existing wireless support structures are available within a reasonable distance that could be used for co-location. The applicant shall be responsible for submitting evidence proving that an existing wireless support structure is incapable of supporting co-location because of unreasonable terms, technical limitations, or other valid criteria as determined by the zoning administrator or designee.

2. Preapplication meeting required. Prior to submitting an application for a conditional use permit for a communication tower, the applicant shall meet with the director of planning to discuss the proposed location of the communication tower, the location of all existing and planned communication towers which the applicant owns or operates within the city, the feasibility of locating the communication facilities on existing towers, buildings or structures, or on municipal property and such other issues as deemed relevant by the planning director or designee. Failure to schedule or attend a preapplication meeting shall preclude the acceptance and processing of an application for a conditional use permit for a communication tower.

3. Additional information required for use permits. In addition to the information otherwise required for a conditional use permit application, any application for a conditional use permit for a communication tower shall include the following:

   a. A site plan drawn to scale specifying the location of tower(s), guy anchors (if any), transmission building and other accessory uses, parking, access, landscaped areas, fences ownership and use of adjoining properties.

   b. Certification by the manufacturer or an engineering report by a state-registered structural engineer shall be submitted indicating the communication tower or antenna height, design, structure, installation and total anticipated capacity of the structure, including number and type of antennas which could be accommodated, and demonstrating to the satisfaction of the code compliance manager that all structural requirements and safety specifications set forth in the Virginia Uniform Statewide Building Code, as supplemented and amended, will be met. In addition to the structural and safety specifications in the Virginia Uniform Statewide Building Code, the certification shall indicate that the proposed communication tower will be constructed to withstand 110 mile per hour winds.

   c. A statement from a registered engineer that the NIER (nonionizing electromagnetic radiation) emitted from the communication tower, when measured in conjunction with the emissions from all communication facilities on the tower, does not result in an exposure at any point on or outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. government or the American National Standards Institute.

   d. In order to assist the city council in determining whether it is feasible to locate the proposed communication facilities on existing communication towers, proposed communication towers which have received all necessary approvals for construction, suitable buildings and suitable structures, including, but not limited to, electric transmission structures, the applicant shall indicate on a map the location of all existing towers, and all buildings and structures suitable for the proposed communication facilities within a two-mile radius of the proposed communication tower site, including specific information about the location, height, and design of each tower.

e. Verifiable evidence from the applicant, in written form deemed acceptable to the director of planning, of the lack of space on all existing towers within a two-mile radius of the proposed site, and all suitable buildings, and other structures which could accommodate the proposed antenna, and the lack of space on existing tower sites to construct an additional communication tower for the proposed antenna within the service area.

f. Written confirmation of plans for multiple use of the proposed communication tower.

g. A visual study depicting all areas the proposed facility would be visible from and what the appearance would be, including photo-simulations. A balloon test at the proposed site may also be required at the discretion of the planning director or designee.

After acceptance of an application as complete, the director of planning may request additional information and documentation relative to land use and safety issues, provided that the director shall not delay processing the conditional use permit application while the provision of such information or documentation is pending. However, in the event that all requested information and documents are not submitted prior to a scheduled public hearing, the planning department will recommend to the planning commission that consideration of the application be continued until such information and documents have been submitted.

4. Multiple use of communication towers required whenever feasible.

   a. In the consideration of applications for the conditional use permits for the construction of communication towers, the multiple use of existing communication towers, proposed communication towers which have received necessary approvals for construction, and suitable buildings and structures, including, but not limited to, electric transmission structures shall be required whenever feasible in order to minimize the proliferation of communication towers throughout the city, to provide for adequate light and air, to facilitate the creation of a convenient, attractive and harmonious community, to preserve the character of zoning districts, and to eliminate the potential for adverse impact on established land uses within the city. However, in no event shall it be deemed a violation of this ordinance to operate a communication tower with a single user if a conditional use permit has been issued without an express stipulation requiring multiple use.

5. Evaluation criteria for conditional use permits. In determining whether a conditional use permit application for a communication tower should be approved, the planning commission and city council shall consider the following factors, in addition to the other evaluation criteria for conditional use permits set out in Article 1 of this ordinance:

   a. Whether the communication tower is consistent with the comprehensive plan as determined by the planning commission in accordance with section 15.2-2232 of the Code of Virginia.

   b Whether approval of the communication tower will contravene good planning practices or obstruct the public aims of facilitating the creation of a convenient, attractive community, providing for adequate light and air, preserving the character of zoning districts and eliminating the potential for adverse impact on established land uses within the city.

   c. Whether the proposed communication tower is to be located in an area where it would be unobtrusive and would not substantially detract from aesthetics or neighborhood character, due either to location, to the nature of surrounding uses (such as industrial uses), or to lack or mitigation of visibility caused by natural growth, stealth design or other factors.

d. Whether the applicant has established that collocation on existing and proposed communication towers and suitable buildings and structures is not feasible in accordance with subsection 420-11.5.4.B.5 above, and whether the applicant has agreed to provide collocation opportunities to other users and has specified the number and types of users that could be accommodated on the proposed communication tower.

e. Whether the application represents a request for multiple use of a communication tower or site, or use on a site contiguous to an existing communication tower. Where the applicant proposes multiple use of the communication tower, the planning commission and the city council may consider whether the applicant has submitted written confirmation of collocation plans including, but not limited to, agreements, memoranda of agreement or completed forms for multiple use provided by the city.

f. Whether the application contains evidence that other potential users of the proposed communication tower have been contacted, and they have no current plans, to the best of their ability to determine, that could be fulfilled by joint use of the proposed communication tower.

g. Whether the application shows how the communication tower or site will be designed or laid out to accommodate future multiple users, and if not so designed, the reasons given for failure to do so.

C. Setback requirements

1. The following setback requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the City may reduce the standard setback requirements if the goals of this section would be better served thereby:

a. Towers must be set back a distance equal to 200% of the height of the tower from any off-site residential structure and in no case less than 400 feet.

b. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.

D. Exceptions to conditional use permit requirement

1. Administrative review-eligible projects. New communication towers meeting the definition of an administrative-review eligible project, or the co-location of a wireless facility that is not a small cell facility on an existing structure, shall be considered an administrative review-eligible project. All such projects shall be reviewed pursuant to the criteria put forth in Virginia Code Section 15.2-2316.4:2, as amended, and shall be subject to the following requirements:

a. The wireless service provider or wireless infrastructure provider either (a) obtains the approval of the City of Lexington by virtue of a franchise agreement and right-of-way permit or lease, as required by law, if a new wireless support structure is proposed to be located in the right-of-way or on city property; or (b) the wireless service provider or wireless infrastructure provider: (i) either has permission from the owner of the land on which the administrative review-eligible project is proposed or has the permission from the owner of an existing pole, building or structure to co-locate equipment on that pole, building or structure and (ii) notifies and provides evidence of such permission to the locality in which the permitting process occurs; and

b. The applicant shall submit an application which shall include: (a) photographs or accurate renderings. including correct colors and exact dimensions, of each type of proposed project; (b) a statement signed by a professional engineer licensed in the

Commonwealth of Virginia stating that the proposed facilities comply with all applicable Federal Communications Commission regulations, including, without limitation, regulations pertaining to the emission of radio frequency radiation; and (c) such additional information as the planning director may reasonably require in order to determine whether the requirements of this section are met.

c. Within ten (10) days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. All such applications shall be approved or denied within the following specified time periods:

   (1) For a new structure within the lesser of one hundred fifty (150) days of receipt of the completed application or the period required by federal law for such approval or disapproval; or
   (2) For the co-location of any wireless facility that is not a small cell facility, within the lesser of ninety (90) days of receipt of a completed application, or the period required by federal law for such approval.
   (3) Any period specified above for the city to approve or disapprove an application may be extended by mutual agreement between the applicant and the city.

d. A completed application shall be deemed approved if the director of planning fails to approve or disapprove the application within the periods specified above or any agreed extension thereof.

e. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval, and the locality must describe any modifications that could be made to the application which would permit the city to approve the proposed project. The director of planning's action on disapproval of an application submitted under this section shall:

   (1) Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and
   (2) Be supported by substantial record evidence contained in a written record publicly released within thirty (30) days following the disapproval.

f. The fee for processing administrative review-eligible projects shall be five hundred dollars ($500.00) in accordance with Virginia Code Section 15.2-2316.4:1, as amended.

g. Nothing in this section shall be interpreted to prohibit the denial of an application if the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds fifty (50) feet above ground level.

h. Nothing in this ordinance shall be interpreted to prohibit the city from limiting the number of new structures or the number of wireless facilities that can be installed within a five hundred foot (500') radius of an existing wireless support structure that could support co-location at that specific location. The applicant shall be responsible for submitting evidence proving that an existing wireless support structure is incapable of supporting co-location because of unreasonable terms, technical limitations, or other valid criteria as determined by the zoning administrator or designee.

2. Temporary portable towers. Temporary portable towers also known as cells on wheels (COWS), are permitted under the following circumstances:

a. For use when a duly authorized communication tower is undergoing maintenance that requires antennas to be disconnected or turned off. A permit shall be obtained from the zoning administrator authorizing the COW for a maximum of sixty (60) days, which period may be extended at the discretion of the zoning administrator.

b. For use in an emergency situation during the activation of the city's emergency operations center.

c. For special events not to exceed seven (7) days under a special event permit approved by the City of Lexington.

3. Small cell facility.

a. Small cell facilities installed by a wireless service provider or wireless infrastructure provider on existing structures; provided that the following requirements are met: The wireless service provider or wireless infrastructure provider either

(1) obtains the approval of the City of Lexington by virtue of a franchise agreement and right-of-way permit or lease, as required by law, if a new small cell facility is proposed to be located in the right-of-way or on city property; or

(2) the wireless service provider or wireless infrastructure provider: (i) has permission from the owner of an existing pole, building or structure to co-locate equipment on that pole, building or structure and (ii) notifies and provides evidence of such permission to the locality in which the permitting process occurs; and

b. The applicant shall submit an application to the department of planning and development for administrative review and approval by the director of planning and the application shall include: (a) photographs or accurate renderings, including correct colors and exact dimensions, of each type of proposed small wireless facility; (b) a statement signed by a professional engineer licensed in the Commonwealth of Virginia stating that the proposed facilities comply with all applicable Federal Communications Commission regulations, including, without limitation, regulations pertaining to the emission of radio frequency radiation; and (c) such additional information as the planning director may reasonably require in order to determine whether the requirements of this section are met. An applicant may submit up to thirty-five (35) permit requests on a single application. All such completed applications, as determined by the director of planning, shall be approved or disapproved within sixty (60) days of receipt of the complete application. Within ten (10) days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. The 60-day period may be extended by the locality in writing for a period not to exceed an additional thirty (30) days. The application shall be deemed approved if the locality fails to act within the initial sixty (60) days or an extended 30-day period. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The fee for processing small cell facility applications shall be one hundred dollars ($100.00) for each application proposing up to five (5) small cell facilities and fifty dollars ($50.00) for each additional small cell facility proposed on a permit application. The application for the small cell facility shall be approved only if the following minimum standards are met:

(1) The small cell facility shall not have the potential to pose a material interference with other pre-existing communication facilities or with future communication facilities that have already been designed and planned for a specific location or that

have been reserved for future public safety communication facilities, as determined by the city.

(2) The small cell facility does not create a public safety concern or inhibit critical public service needs.

(3) If the communication small cell facility shall be installed on or in publicly owned or publicly controlled property, excluding privately owned structures, the communication small cell facility shall be substantially concealed from view by means of painting or tinting to match the surface of the building or other structure to which they are affixed or by other suitable method, such as by flush-mounting or integration into the design elements of the building or structure.

(4) Further, electrical power and battery backup cabinets shall be roof-mounted or otherwise located so as not to be visible from a public street or, where not practicable as determined by the director of planning, such equipment shall be appropriately screened by landscaping or other means minimizing visibility from a public street.

(5) Small cell facilities shall only be permitted in the Lexington Downtown Historic Preservation District or the Residential Neighborhood Conservation District if they meet the standards included in the Lexington Historic District Design Guidelines as amended and with a certificate of appropriateness approved by the Architectural Review Board.

(6) This section shall not be construed to prohibit or limit an applicant from voluntarily submitting conditions to address visual or aesthetic effects resulting from the placement of small cell facilities on private property.

c. At such time that the small cell ceases to be used for communications purposes for three (3) consecutive months, the applicant shall remove the small cell from the property. If the applicant fails to remove the small cell within thirty (30) days of written notice from the zoning administrator, the director of planning, through his or her own agents or employees, shall be authorized to remove the small cell facility and assess all charges incurred in such removal on the applicant or owner.

4. Micro-wireless facilities. The installation, placement, maintenance or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles shall not require any permit from the city nor shall they be subject to any fee from the city if the applicant provides the director of planning or designee with proof of compliance with all national safety codes.

5. Nothing herein shall be construed to exempt the applicant from the requirement for a grant of franchise from the city council pursuant to Section 15.2-2100 of the Code of Virginia, 1950, as amended.

Article XII. Off-Street Parking and Loading Requirements

§420-12.1. Intent.

A. The purpose of this article is to regulate the design, location and maintenance of parking areas, to meet the expanding needs of a growing City and to furnish adequate facilities to satisfy those who live, shop and work within the City.

B. It is the intent of this article to have adequate parking designed and constructed during the erection of all new structures and the modifications to existing structures.

C. These parking areas are to be designed for the convenience of all who use them and shall be located so as to improve traffic flow, promote traffic safety and add to the beautification of the City.

§420-12.2. Location generally.

A. Off-street parking required by this chapter shall only occur on an all-weather driving surface.

B. There shall be provided, at the time of the erection of any principal building or structure or at the time any principal building or structure is altered, enlarged or increased in capacity by adding dwelling units, guest rooms, floor areas or seats, not less than the amounts of parking space given in **§ 420-12.8**. Such space shall be maintained and shall not be encroached upon so long as such principal building or structure remains, unless an equivalent number of such spaces is provided elsewhere in conformance with the article.

C. Loading space, as required in **§ 420-12.9**, shall not be construed as supplying off-street parking space.

D. Notwithstanding any contrary provision of this chapter, buildings in the Historic Downtown Preservation District shall be exempt from the requirements of this article.

§420-12.3. Location in relation to use.

The parking spaces required shall be located on the same lot as is the principal use; provided, however, that upon the recommendation of the Planning Commission and made part of a conditional use permit by the City Council, a portion of required off-street parking for uses in districts other than residential may be located in a remote parking lot zoned C-1 or C-2 which is within 500 feet measured along lines of public access from the principal use. A remote parking lot to satisfy this requirement shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this article.

§420-12.4. Reduction.

Off-street parking space required under this article may be reduced at a time when the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change. Such reduction may not be to a level below the standards set forth in this article.

§420-12.5. Joint use of spaces.

A. Churches. Parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums and other places of public assembly, stores, office buildings and industrial

establishments, lying within 500 feet of a church, as measured along lines of public access, that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays and that are made available for other parking may be used to meet not more than 75% of the off-street parking requirements of a church.

B. Other places of public assembly. Parking spaces already provided to meet off-street parking requirements for stores, office buildings and industrial establishments, lying within 500 feet of a place of public assembly, as measured along lines of public access, that are not normally in use between the hours of 6:00 p.m. and 12:00 midnight and that are made available for other parking may be used to meet not more than 50% of the total requirements of parking space.

§420-12.6. Design standards.

A. Surfacing. Depending on the site's topography and conditions, the Zoning Administrator may require that off-street parking areas for three or more vehicles be surfaced with an erosion-proof asphaltic, bituminous, cement or other properly bound pavement. Off-street parking shall not be located in a required yard or near the front entrance of a structure unless an all-weather driving surface is provided as approved by the City.

B. Drainage and maintenance. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys. Off-street parking areas shall be maintained in a clean, orderly and, to the extent possible, dust-free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

C. Separation from walkways and streets. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device, or by distance, so that vehicles cannot protrude over publicly owned areas.

D. Entrances and exits. The location and design of entrances and exits shall meet regular traffic safety and design standards. In general, there shall not be more than one entrance and one exit or one combined entrance and exit along any one street.

E. Interior drives. Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, except that no driveway shall be less than eight feet in width.

F. Marking. Parking spaces in lots of more than 10 spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used to ensure efficient traffic operation on the lot.

G. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare on property in a residential district.

H. Screening. Where off-street parking areas for five or more automobiles are located closer than 50 feet to a dwelling in a residential district and where such parking areas are not entirely screened visually from the dwelling by an intervening building or structure, a continuous visual screen, with a minimum height of six feet, shall be provided between the parking area and the dwelling. Such screen shall be a solid masonry wall, a uniformly painted solid board fence or evergreen hedge six feet in height, except in areas requiring natural air circulation, unobstructed view or other technical considerations necessary for proper operation.

I. Shared access. Access to required parking spaces for single-and two-family residences may be provided by a shared driveway when each abutting side yard has a minimum width of 10 feet.

J. Electric vehicle charging stations. Any off-street parking space that meets the minimum requirements of this article may also include a charging station for electric vehicles. Such stations may be reserved for electric vehicles and may also count toward minimum off-street parking requirements.

§420-12.7. Obligations of owner.

A. The requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner of the real estate on which any structure or use is located as long as such structure or use is in existence and its use, requiring vehicle parking or vehicle loading facilities, continues. It shall be unlawful for the owner of any structure or use affected by this article to discontinue, change or dispense with or to cause the discontinuance or change of the required vehicle parking or loading space, apart from the alternate vehicle parking or loading space which meets with the requirements of and is in compliance with this article. It shall be unlawful for any firm or corporation to use such structure without acquiring such land or other suitable land for vehicle parking or loading space which meets the requirements of and is in compliance with this chapter.

B. Whenever off-street parking is required and cannot be provided within the principal structure or on the same lot as the principal structure and is located on another parcel of property, as permitted by this article, such parcel of property provided and utilized for off-street parking shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this article.

C. No recreational vehicles shall be parked or stored on any lot in a residential zoning district on that portion of the lot lying between the center line of the street and the front of the structure; provided, however, that such equipment may be parked on that portion of the lot lying between the center line of the street and the front of the structure on residential premises for a period not to exceed 48 hours during loading and unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

D. Vehicles that are inoperable, unregistered, or abandoned must not be stored outdoors. For purposes of this section, an auto repair service facility with a valid business license issued by the City is exempt from the prohibition of storing inoperable, unregistered, or abandoned vehicles outdoors.

§420-12.8. Schedule of required spaces.

Off-street parking shall be provided according to the following schedule. Where application of the schedule creates a fractional number of spaces, the parking spaces required shall be construed to be the next highest whole number.

Use	Parking Spaces Required
Assemblies (public and religious); club; and civic use	1 for each 6 seats or 10 feet of benches or pews, based on fixed seating capacity in the main place of assembly therein; 1 for each 100 square feet of

	assembly floor space in buildings without fixed seating
Automobile and commercial vehicle repair service, car washes, and gasoline stations	3 for each bay, stall, rack or pit, plus 1 for each gasoline pump; minimum 5 spaces
Automobile and equipment sales lots, rental/leasing	1 customer vehicle space for each 500 square feet
Bed-and-breakfast, dormitories, and short term rental business	1 for each sleeping room in addition to parking spaces required for permanent residents of the building
Brewery, Distillery, Winery	1 for each 150 square foot of food/beverage preparation and consumption area, plus 1 per 800 square feet of operations
Commercial indoor amusement	1 space for each 3 persons based on maximum occupancy
Commercial indoor entertainment	1 space for each 4 seats or similar accommodations, plus 1 space per 2 employees on largest shift
Commercial outdoor entertainment	1 space for each 3 persons based on maximum occupancy load, plus 1 space per employee on largest shift
Commercial outdoor sports & recreation	1 space for each 3 persons based on maximum occupancy load, plus 1 space per employee on largest shift
Clinic	1 for each 200 square feet
Cultural services	1 for each 500 square feet
Day care center	1 for each 250 square feet
Educational facility	1 for each employee on largest shift, plus 1 per 20 students
Family home day care	1 plus residential requirement
	1 for each 250 square feet
Fraternity or sorority	1 space for each bed provided in the house's designed capacity or 15 spaces, whichever is greater
Funeral homes and mortuaries	1 for each 100 square feet of floor space of assembly rooms used for service
Garden center	1 for each 300 square feet
Halfway house	1 for each two residents
Hospitals, general acute care	2 for each bed
Home for adults	1 for every 2 occupants
Home occupation, class A	2 plus residential requirement
Home occupation, class B	4 plus residential requirement
Hotels	1 for each guest room or resident unit, plus required parking for any restaurant or assembly space
Kennel	1 for each 400 square feet
Light Industrial, custom manufacturing	1 for each 2 employees, based on estimated maximum daily or maximum 8-hour shift requirements in a 24-hour period
Laboratory; Research and development	1 for each 800 square feet

Large capacity dwelling, and group home	2 for each dwelling unit or 1 per bedroom, whichever is greater
Laundry	1 for each 2 washing machines
Libraries	1 for each 500 square feet of floor space
Mini-warehouse	3 plus 1 per 100 units
Multi-family dwelling	1.25 for each studio & one bedroom unit, 1.5 for each two bedroom unit, and 2 for each three or more bedroom unit
Nursing homes and homes for adults	1 for every 2 beds
Offices, general	1 for each 250 square feet
Offices, medical	1 for each 200 square feet
Outdoor sales, display, or service area	1 for each 2,000 square feet
Personal services; personal improvement services	1 for each 500 square feet
Restaurants	1 for each 150 square feet of floor space
Shelter	1 for each 2 residents
Single-family dwellings, two-family dwellings, accessory dwellings and townhouses	2 for each dwelling unit; 1 for each accessory dwelling, 4 outdoor parking spaces maximum per residential lot
Sports arenas or stadiums	1 for each 6 seats or 10 feet of benches
Store, general	1 for each 250 square feet
Veterinary hospital/clinic	1 for each 400 square feet
Warehouses and wholesale sales	1 for each1,250 square feet

§420-12.9. Off-street loading.

A. On the same premises with every building or structure or part thereof erected and occupied for manufacturing, storage, warehousing, goods display or as a department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry-cleaning establishment or other use similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services, in order to avoid interference with public use of the streets and alleys.

B. Such loading and unloading space, unless otherwise adequately provided for, shall be an area 10 feet by 50 feet, with fifteen-foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area (square feet)	Loading and Unloading Spaces Required in Terms of Usable Floor Area
0 to 1,400	None
1,401 to 20,000	1 space
20,001 to 100,000	1 space, plus 1 space for each 20,000 square feet
100,001 to 500,000	5 spaces, plus 1 space for each 40,000 square feet in excess of 100.000 square feet
Over 500,000	15 spaces, plus 1 space for each 80,000 square feet

Article XIII. Signs

§420-13.1. Purpose and Intent.

A. Signs can obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech and in a manner consistent with the City's Comprehensive Plan. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article, which can be given effect without the invalid provision.

B. Signs not expressly permitted as being allowed under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the City are forbidden.

C. These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

§420-13.2 Sign Permits.

A. *Permit required.* Except when otherwise exempted by this article, no sign shall be erected, constructed, posted, painted, altered, or relocated, unless and until a zoning permit has been issued by the zoning administrator and where provided for in this article, subsequent to an approval of a certificate of appropriateness by the architectural review board (ARB) where applicable or by the Planning Commission where applicable.

B. *Permit process.* Before any zoning permit is issued, the applicant shall submit to the administrator a sign permit application and an application for certificate of appropriateness when applicable provided by the administrator, together with drawings and/or specifications as may be necessary to fully advise and acquaint the administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, and number of signs applied for, and the style of the wording of the sign or advertisement to be carried on the sign.

C. *Application.* The permit application shall contain the location of the sign structure, the name and address of the sign owner and of the sign erector, a drawing showing the design and location of the sign, and such other pertinent information as the Building Official may require to ensure compliance with this chapter or other ordinances of the City.

D. *Fees.* Fees for sign permits shall be as fixed from time to time by the governing body of the City.

E. *Building codes and inspections.* Structural and safety features and electrical systems shall be in accordance with the requirements of applicable codes and ordinances. No sign shall be approved for use unless it has been inspected by the department issuing the permit and is

found to be in compliance with all the requirements of this chapter and applicable technical codes. All signs which are electrically illuminated shall require a separate electrical permit and inspection.

F. *General permit application requirements.* Submission requirements for architectural review board sign guidelines as set forth in the Historic District Design Guidelines adopted by the City Council, as amended, shall be followed for selecting the type of sign, location, colors, lettering style, materials and type of illumination (if applicable). Sign permit applications also require:

1. An application for a certificate of appropriateness, as applicable.
2. A plan showing location of existing and proposed sign(s) on building façade(s) or grounds and exterior dimensions of buildings subject to the sign permit.
3. Scaled drawings showing dimensions, scale, and elevation of proposed sign(s) to include specific materials, hardware, and methods of mounting and illumination.

G. All signs shall be erected within six (6) months from the date of approval of the sign permit; otherwise, the permit shall become null and void and a new permit shall be required. The zoning administrator may grant one extension of the permit for a period of six (6) months, but in no case shall a permit be valid for more than a total of twelve (12) months. Extensions may be granted only when the proposed sign is in compliance with all current applicable regulations.

§420-13.3. Exemptions.

Sign permits shall not be required for the following signs; however, all applicable regulations of this chapter shall apply.

A. Signs erected by a governmental body or required by law, including official traffic signs or sign structures, provisional warning signs or sign structures, and temporary signs indicating danger.

B. Minor signs as defined by this ordinance not exceeding three (3) total signs per street frontage per parcel.

C. Change of message of an approved sign.

D. Painting, repainting, cleaning and other normal maintenance and repair of signs or sign structures, unless a structural change is made.

E. Temporary Signs as set forth in this section, including real estate signs, contractor signs, and special event signs.

F. A sign displayed on a truck, bus or other vehicle, while in use in the normal course of business with the exception of mobile billboards that are prohibited.

G. Flags of the United States of America, Commonwealth of Virginia, City of Lexington, or other flags displayed for non-commercial purposes.

H. Any property actively offered for sale or lease may display one sign per street frontage in addition to those otherwise allowed by this ordinance, limited to a maximum area of sixteen (16) square feet for parcels in commercial zoning districts (R-LC, C-1, & C-2) and eight (8) square feet in all other zoning districts. Such signs shall to be removed when the property is no longer offered for sale or lease and shall not be banner type signs.

I. Fuel pumps and electric vehicle charging stations with not more than 2 square feet of signage per pump or charger.

§420-13.4. Prohibited signs.

The following signs are prohibited:

A. Flashing Signs or signs lighted in a varying degree including strobe lights.

B. Moving or Rotating Signs.

C. Off-premises signs.

D. Inflatable signs.

E. Signs or parts of a sign located anywhere on the roof or wall of a building so that they shall extend above or beyond the perimeter of the building's roof, wall or parapet wall or into a front, side or rear yard setback.

F. Signs illuminated with sodium halide lights; and any illuminated sign that emits excessive levels of light in the opinion of the Zoning Administrator.

G. Electronic message boards.

H. Abandoned sign structures.

I. Changeable copy signs, except as specifically permitted by this Zoning Ordinance.

J. Any signs, including posters and handbills, affixed to any structures, trees or other natural vegetation, rocks or poles.

K. Any sign that may be confused with or obstruct the view of any authorized traffic sign or signal, or obstruct the sight-distance triangle at any road intersection, or extend into the public right-of-way or otherwise create a distraction for drivers.

L. Portable signs, including those on wheels, except A-Frame/sandwich boards complying with the provisions of this section.

M. Signs that prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part or otherwise adversely affect safety or are in violation of any building code or other applicable law.

N. Signs that emit smoke, visible vapors, particles, normally detectable sound or odor shall not be permitted, including open flames used to attract public attention.

O. Mirrors or mirror devices on, in, or as part of a sign.

P. Signs placed, affixed or painted on a motor vehicle or trailer parked with the primary purpose of providing signage, and not used in the normal conduct of business.

Q. Signs located in the public right-of-way, unless approved and erected by the City of Lexington.

R. Mobile billboards.

S. Any sign representing or depicting specified sexual activities or specified anatomical areas or sexually oriented goods. Any sign containing obscene text or pictures as defined by the Virginia Code.

T. Signs advertising activities or products that are illegal under federal, state, City or county law.

§420-13.5. Sign Standards: C-1 Zoning District.

Any business located within a C-1 zoning district shall be limited to displaying no greater than 1 square foot of signage per foot of business frontage, and in no case shall any business display greater than 30 square feet of signage per building street frontage. Individual signs shall be limited in their size and placement according to the following regulations:

	Maximum Sign Dimensions: C-1 Zoning District		
Sign Type	***Number***	***Area*** *(Sq. Ft.)*	***Height*** *(Ft.)*
Window	*Not limited*	*Lesser of 20% of window area or 6 Sq. Ft.*	*Not limited*
Freestanding	*1 per business*	*9 s.f. per side for buildings < 30 ft frontage; 15 per side for buildings > 30 ft frontage*	*8*
Projecting	*1 per business per street frontage*	*9 s.f. per side for buildings < 30 ft frontage; 15 per side for buildings > 30 ft frontage*	*No less than 8 and 15 ft. max. above grade level*
Wall	*1 per business per street frontage*	*15 s.f.*	*15 ft. max. above grade level*
Awning	*Permitted*	*Letters not more than 6 inches high.*	*No less than 9*
Canopy[3]	*1 per building >40 ft. street frontage*	*Buildings up to 3 stories in height: letters up to 12 inches tall and not more than 7.5 s.f. total. Buildings over 3 stories in height: letters up to 16 inches tall and not more than 10 s.f. total.*	*15 ft. max. above grade level*
Internally Illuminated	*Not permitted except one neon window sign and one canopy sign*[3]	*Up to 3 Sq. Ft.*[1]	*n/a*
A-Frame	*1 per 30 feet of frontage*	*6 per side*	*4 feet*
Painted	*1 on side or rear wall*	*Shall not exceed 10% of that wall area*	*As per other standards*
Temporary (freestanding, banner, or wall only) [2]	*Not limited*	*8*	*4*
Total sign calculation	*Any business in C-1 shall be limited to displaying no greater than 1 sq. ft. of signage per foot of business frontage*		
Maximum sign allowance	*In no case shall any business display greater than 30 sq. ft. of signage per building street frontage*		

[1]Such signs shall not flash and shall be “on” only during posted hours of business.

[2]Temporary signs shall not count toward sign allotment for each business.

[3]Open face channel letter only (with or without a diffuser); 800 lumens maximum per channel letter; and 2700K maximum color temperature.

A building owner may allocate up to 15 square feet of the building's available signage to each business occupant located in an upper story, basement or interior space not sharing the building face.

§420-13.6. Sign Standards: C-2 Zoning District.

Any business located within a C-2 zoning district shall be limited to displaying no greater than 2 square feet of signage per foot of business frontage, and in no case shall any business display greater than 100 square feet of signage per building street frontage. Individual signs shall be limited in their size and placement according to the following regulations:

	Maximum Sign Dimensions: C-2 Zoning District		
Sign Type	***Number***	***Area*** *(Sq. Ft.)*	***Height*** *(Ft.)*
Window	*Not limited*	*Lesser of 20% of window area or 6 Sq. Ft.*	*Not limited*
Freestanding	*1 per street frontage, limit 2 per lot*	*25*	*15*
Projecting	*1 per business per street frontage*	*12*	*No less than 9*
Wall	*1 per business per street frontage*	*1 s.f. for each lineal foot of bldg. frontage; with 32 s.f. min. and 100 s.f. max. allowed*	*15 ft. max. above grade level*
Awning	*Permitted*	*Letters not more than 12 inches high.*	*No less than 9*
Canopy	*1 per business per street frontage*	*20 s.f.*	*15 ft. max. above grade level*
Internally Illuminated	*Permitted*	*n/a*	*n/a*
A-Frame	*1 per 30 feet of frontage*	*6 per side*	*4 feet*
Painted	*1 on side or rear wall*	*Shall not exceed 15% of that wall area*	*As per other standards*
Temporary (freestanding, banner, or wall only)[1]	*Not limited*	*8*	*4*
Total sign calculation	*Any business in C-2 shall be limited to displaying no greater than 2 sq. ft. of signage per foot of business frontage*		
Maximum sign allowance	*In no case shall any business display greater than 100 sq. ft. of signage per building street frontage*		

[1]Temporary signs shall not count toward sign allotment for each business.

§420-13.7. Sign Standards: R-1, R-2, R-M, R-LC Zoning District.

Signs located in the R-1, R-2, R-M, or R-LC zoning districts shall be limited in their size and placement according to the following regulations:

	Maximum Sign Dimensions: Residential Zoning Districts (R-1, R-2, R-M, R-LC)								
	Residential Uses			**Residential Projects**[1]			**Non-Residential Uses**		
Sign Type	**Number**	**Area** (Sq. Ft.)	**Height** (Ft.)	**Number**	**Area** (Sq. Ft.)	**Height** (Ft.)	**Number**	**Area** (Sq. Ft.)	**Height** (Ft.)
Freestanding Signs	1 per lot	2 sq. ft.	4 feet	1 per site entrance	16 Sq. Ft.	4 feet	1 per separate road frontage	16 Sq. Ft.	5 feet
Wall Signs	1 per lot	2 sq. ft.	n/a	1 per street frontage	16 Sq. Ft.	n/a	1 per separate road frontage	16 Sq. Ft.	12 ft.

[1]Includes subdivisions, multifamily buildings, and other types of residential projects built as a unified development.

§420-13.8. Sign Standards: P-OS Zoning District.

Signs located in the P-OS zoning district shall be limited in their size and placement according to the following regulations:

A. One wall sign 16 square foot in area and not more than 10 feet above grade.

B. One freestanding sign 16 square foot in area per each of two sides and not more than 4 feet above grade.

§420-13.9. Temporary signs.

A. Temporary signs may be erected or constructed without a permit in all zoning districts; however, all applicable code requirements in this chapter shall still apply.

B. *Temporary Signs in Commercial Zoning Districts (C-1 and C-2)*. These signs shall be either Freestanding Signs, Wall Signs, Window Signs, or Banner Signs, and may be displayed for up to 45 consecutive days. The zoning administrator may extend the time limit by up to 45 days upon application by the owner at the end of the initial 45-day period, if the applicant shows that the sign is maintained in sound condition and the purpose for it still pertains. Temporary Freestanding Signs, Wall Signs, Banner Signs, shall not exceed one sign per location, nor eight (8) square feet in area and four (4) feet in height. Temporary Window Signs shall not obstruct more than twenty (20) percent of the area of the window on which the sign is located.

C. *A-Frame Signs in Commercial Zoning Districts (C-1 and C-2).* These signs must not be more than an aggregate of twelve (12) square feet or less in a sandwich board design as defined herein. The sign may only be displayed during business hours. The placement of the sign shall not impede pedestrian, wheelchair, or vehicular traffic flow. Signs must be placed to maintain at least four (4) feet of clear passage between the edge of the sign and the curb and should not otherwise compromise public safety. Only one such sign is permitted per business, or one sign per thirty (30) linear feet of sidewalk, whichever is more restrictive. A-Frame Signs may be displayed on a daily basis and are not limited to the time constraints in subsection B. listed above.

D. *Temporary Signs in Residential Zoning Districts.* These signs shall be either Freestanding Signs, Wall Signs, Window Signs or Banner Signs. Temporary Signs shall not exceed sixteen (16) square feet in area total per property. No sign shall exceed six (6) feet in height, except Window Signs. Window signs shall not obstruct more than twenty-five (25) percent of the total area of all windows on each building façade on the property.

E. *Temporary Signs required to be posted by law.* Any such sign shall be removed the day after the last day for which it is required to be displayed. The administrator may require proof of legal requirement for the posting of the sign. These signs are permitted in all zoning districts.

§420-13.10. General requirements for all signs.

A. Sign area computations.

1. The surface area of any sign permitted under this article is determined by measuring the entire face of the sign including any wall work incidental to its decoration, but excluding support elements whose sole purpose and function is to support the sign, except as noted below:

2. The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.

3. Whenever one sign contains information on both sides, one side only shall be used in computing the surface area of the sign.

B. Placement of signs

Signs shall be placed so they do not obstruct vehicles, pedestrians, or the signs of adjacent businesses and so that they follow architectural review board placement guidelines.

C. Materials, colors, and styles

The materials, colors, and styles of non-temporary signs located within approved historic districts are subject to the approval of the architectural review board in accordance with any applicable design guidelines adopted by the City Council.

D. Lighting

No sign shall be illuminated in such a way that light may shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling unit zoned R1, R2, or R-M.

E. Substitution

Wherever this Article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height and construction.

§420-13.11. Structural and maintenance requirements.

All signs shall be maintained in good condition and remain structurally safe. Any sign that has deteriorated to a state of peeling, cracking, splitting, fading or rusting, is in violation of this ordinance and subject to enforcement.

§420-13.12. Nonconforming signs.

A. Any sign lawfully in existence on the date of enactment of this article may be maintained even though it does not conform with the provisions of this article.

B. No nonconforming sign may be enlarged or altered in such a manner as to expand the nonconformity, nor may illumination be added to any nonconforming sign, except as provided in **§420-13.10.D**.

C. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.

D. A nonconforming sign destroyed by any cause may not be repaired, reconstructed or replaced except in conformity with this article. For the purposes of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former condition or replacing it with an equivalent sign equals or exceeds fifty (50) percent of the appraised value of the sign so damaged.

E. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities.

F. A pre-existing sign must be removed if the structure, building or use to which it is accessory is destroyed, or demolished to an extent exceeding 50 percent of the appraised value of the principal structure, building or use.

§420-13.13. Enforcement.

A. *Violations*. Violations of this Article constitute violations of the zoning code and the City may obtain compliance through any of the methods available for other zoning violations.

B. *Removal of signs in violation.* The Zoning Administrator may order the removal of any sign erected or maintained in violation of this article. He shall give 30 days' notice in writing to the owner of such sign or of the building, structure or premises on which such sign is located to remove the sign or to bring it into compliance with this article. The Zoning Administrator may remove a sign immediately and without notice if, in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public. Any surface exposed by the removal of a sign shall be restored to its original condition by the property owner and be compatible with adjacent surfaces.

C. *Removal of abandoned signs.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove such sign, the Zoning Administrator shall give the owner 15 days' written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator or his duly authorized representative may remove the sign at cost to the property owner.

§420-13.14. Appeals.

Any person aggrieved by any decision or order of the Zoning Administrator may appeal to the Board of Zoning Appeals by serving written notice to the Zoning Administrator, who, in turn, shall immediately transmit the notice to the Board, which shall meet to hear it within 30 days thereafter. The Zoning Administrator shall take no further action on the matter, pending the Board's decision, except concerning unsafe signs which present an immediate and serious danger to the public, as provided in **§ 420-13.12B.**

Article XIV. Landscaping.

§420-14.1 Purpose and Intent.

The purpose of this section is to establish standards for landscape architecture, site design, site buffering, and landscape screening. With the intent of preserving and promoting the health, safety, and general welfare of the City, these regulations are based on the following goals:

A. Preserve and enhance the aesthetic character of the City;

B. Protect the quality of the City's natural rivers, streams, and wetlands;

C. Enhance erosion control;

D. Improve the relationship between adjacent properties through screening and buffering;

E. Promote economic development in the City's neighborhoods, historic districts, and entrance corridors.

§420-14.2. Application of Landscape Standards.

A. These landscape requirements shall apply to:

1. All new developments, or redevelopments, requiring an approved site plan as specified by this ordinance

2. All properties seeking rezoning or conditional use permit under the requirements of this ordinance

B. These requirements shall not apply to parcels containing single-family detached dwellings or two-family dwellings.

§420-14.3. Landscape Plan Requirements.

A. The landscape plan shall include:

1. Location, type, size, height, and number of proposed plantings.

2. Planting specifications or installation details.

3. Location and size of all existing plants and trees to be retained during construction, as well as protection measures to be implemented during construction.

4. Location, size and other related design details for all hardscape improvements, signage, recreational improvements and open space areas, fences, walls, barriers and other related elements.

5. Designation of required setbacks, yards and screening areas

6. Location of other man-made site features, parking lots, hardscape improvements, overhead structures and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements.

§420-14.4. General Standards.

A. Any required landscaping shall be installed prior to the issuance of a certificate of occupancy.

B. Existing healthy trees and shrubs shall be credited toward any minimum landscaping required by this section, provided they meet minimum size standards and are protected before and during construction and maintained thereafter in a healthy growing condition.

C. The owner of the property upon which the required landscaping or buffering is installed shall be responsible for maintenance and replacement. If any required tree, shrub, or other landscaping element shall die or be removed after issuance of the certificate of occupancy, the developer, his or her successors or assigns, shall replace each by the end of the next planting season with trees or shrubs of the same or similar species, type, color, or character.

D. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking isles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety.

E. All required landscape materials shall conform to the following minimum size or height standards at the time of planting:

1. Deciduous shade trees: 1" caliper
2. Ornamental and understory trees: 4' height
3. Coniferous trees: 4' height
4. Shrubs: 12" spread or height

§420-14.5. Buffering.

Landscape buffering is intended to provide a year-round visual screen between two or more properties in order to minimize visual and other adverse impacts. Buffering may consist of fencing, evergreens, boulders, mounds, or a combination of materials.

A. A landscape buffer area shall be required where a commercially zoned development abuts a residential zoning district, or where multi-family residential development abuts any property zoned R-1 or R-2.

B. In the above conditions, a buffer strip ten (10) feet in width shall be required. Where site considerations do not allow a natural buffer of ten (10) feet width, a smaller buffer, or a privacy fence or wall, may be substituted for all or a portion of that buffer as approved by the Zoning Administrator during the site plan process.

C. Plants should be sufficiently large and planted in such a fashion that a year-round screen at least six (6) feet in height shall be produced within one growing season.

D. No buildings, structures, storage of materials, or parking shall be permitted within a buffer area.

E. Buffer plantings shall be maintained in perpetuity in such a way as to ensure that the buffering requirements of this ordinance continue to be met. Any dead or dying plants shall be removed within thirty (30) days of notification by the Zoning Administrator and shall be replaced by the property owner during the next viable planting season

§420-14.6. Screening.

A. Screening shall be required to conceal specific areas from both on-site and off-site views. Such areas shall be screened at all times, regardless of adjacent uses, adjacent districts, or other proximate landscaping material. Specific areas to be screened include:

1. Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers)
2. Loading and service areas
3. Outdoor storage areas (including storage tanks)
4. Ground-based utility equipment with size in excess of 12 cubic feet
5. Ground level and wall-mounted mechanical equipment (e.g. air handling equipment, compressors, condensers, duct work, transformers, and elevator equipment) visible from a public street (not including an alley) at ground level at the property line. Window mounted mechanical equipment, solar photovoltaic, and solar thermal systems are exempted from the requirement to screen mechanical equipment.

B. The above-mentioned areas shall be screened using an appropriate combination of landscape plants, fencing, or masonry walls to adequately screen them from views both on and off the subject property.

C. Screening plantings shall be maintained in perpetuity in such a way as to ensure that the buffering requirements of this ordinance continue to be met. Any dead or dying plants shall be removed within thirty (30) days of notification by the Zoning Administrator and shall be replaced by the property owner during the next viable planting season.

§420-14.7. Parking Lot Landscaping.

All vehicle parking areas shall include landscaping, both within the interior of the parking area and around its perimeter, to provide shade, screen views, mitigate runoff, and provide aesthetic appeal. However, the landscape provisions of this Section shall not apply to off-street parking for individual single or two-family residential dwellings, or for parking structures or vehicle display areas.

A. Parking Lots Adjacent to Lot Lines: For parking lots immediately adjacent to lot lines, the following landscape regulations shall apply:

1. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a property line not common with the right-of-way of a street, a landscaping strip of two and one-half (2 1/2) feet in width shall be located between the parking lot and the abutting property line.
2. A minimum of one tree for each forty (40) feet of contiguous property line shall be planted in the landscape strip.

B. Parking Lots Adjacent to Public Streets: For parking lots and private access adjacent to public streets which are subject to site plan approval, the following landscape regulations shall apply:

1. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a public right-of-way for a City street, a landscaping strip

of five (5) feet in width (not including the sidewalk) shall be located between the parking lot or private driveway and the right-of-way line.

2. A minimum of one tree for each forty (40) feet of property line common with the public right-of-way shall be planted in the landscaping strip.

C. All parking lots of thirty (30) or more spaces shall contain within the interior of the parking lot not less than one tree for every twelve (12) continuous parking spaces or fraction thereof. Such trees shall be dispersed throughout the interior of the parking lot. In the case of redevelopment proposals, this parking lot tree requirement is only applicable to those proposals that necessitate additional parking spaces over those that are currently provided.

D. Landscaped planting islands (located such that parking spaces are on opposing sides of the planting island) shall be developed in parking lots meeting the following criteria:

1. The total size of the parking lot exceeds one hundred fifty (150) total parking spaces.

2. Parking lot layout incorporates three or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other.

3. Planting islands which are designed to be perpendicular to the parking bay shall be constructed for every other parking bay.

4. Planting islands shall have a minimum width of six (6) feet to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of the intended landscape materials to be planted therein.

E. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubs and other live planting material may be used to complement the primary, tree landscaping.

F. The landscaping shall be dispersed throughout the parking lot, with interior dimensions of any planting area (i.e. interior parking median) sufficient to protect and maintain all landscaping materials planted therein.

§420-14.8. Walls and Fences.

Fences and walls may be used within landscaped areas to provide buffering, privacy, separation, security, or for aesthetic reasons, but may not create an unsightly or unsafe condition on or off of the public or private property on which the fence or wall is proposed.

A. The provisions of this section shall apply to all construction, reconstruction, or replacement of fences or walls except:

1. those required for support of a principal or accessory structure

2. engineered retaining walls necessary to the development of a site

3. temporary fences for construction activities, trees protection, and erosion and sediment control

B. Fences or walls shall not be located within the public right-of-way.

C. Fences and walls may be located within any required yard or setback.

D. Fences located within an easement shall receive written authorization from the easement holder or the City (as appropriate). The City shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements or facilities.

E. No fence or wall shall be installed in a manner or in a location so as to block or divert a natural drainage flow on to or off of any other land, unless the fence or wall has specifically been approved as part of an approved stormwater management plan.

F. A fence or wall in any residential zoning district shall not exceed 7 feet in height above the existing grade without approval of a conditional use permit.

G. A fence or wall in any commercial zoning district shall not exceed 8 feet in height above the existing grade without approval of a conditional use permit.

H. No fence or wall shall be constructed in a manner or in a location that impairs safety or sight-lines for pedestrians and vehicles traveling on public rights of way.

I. All fences and walls and associated landscaping shall be maintained in good repair and in a safe and attractive condition. The owner of the property on which a fence or wall is located shall be responsible for maintenance, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

§420-14.9. Recommended Plants.

Landscaping plans and plantings installed within the City should generally be sustainable and biologically diverse with emphasis on trees and plants native to Virginia and the Lexington region, as well as those landscape patterns established in the City in the past.

A. Landscape designers shall make every effort to use healthy and locally sourced, trees, shrubs, and other plants, and to create landscapes that minimize the need for maintenance and irrigation. Invasive species are not recommended.

B. For the purposes of meeting the City of Lexington's landscape ordinance goals, the following plant and tree species are suggested as a guide to landscape architects and landscape designers. This list is intended as a suggestion only. Final plant selections should be made by property owners in consultation with qualified landscape professionals, and should consider specific site conditions, disease resistance, and other qualities to ensure healthy and beautiful landscapes.

    1. Street and shade trees: Japanese Pagoda Tree, Silver Linden, Zelkova, American or Chinese Elms, Swamp White Oak, Kastura, Ginkgo, River Birch, Hackberry, London Plane Tree, Yellowwood, Bale Cypress.

    2. Ornamental or flowering trees: Amur Maple, Dogwood (Kousa), Serviceberry, Redbud, Cornus Mas Dogwood, Seven Son Flower, Bottle Brush Buckeye, Yellowwood, Spicebush.

    3. Evergreen or flowering shrubs: English Yew, Japanese Yew, Rhododendren, Abelia, Forsythia, Viburnum, Flowering Quince, colored twig Dogwoods, Hydrangeas, Aucuba, Globe Cryptomeria, Globe Arborvitae, Inkberry, Chokeberry, Carolina Allspice, Elderberry, Distyllium, Winterberry, Clethra, Fothergilla, Sweet Spire.

4. Buffering/screening: American Holly, Arborvitae, Foster Holly, Cryptomeria, False Cypress, Sweet Bay Magnolia, Bald Cypress, Dawn Redwood, Eastern Red Cedar.

Article XV. Exterior Lighting

§420-15.1. Purpose and Intent.

The purposes of these outdoor lighting regulations are to protect dark skies, to protect the general welfare by controlling the spillover of light onto adjacent properties, to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent lands. More specifically, this section is intended to:

A. Regulate lighting to assure that excessive light spillage and glare are not directed at adjacent lands, neighboring areas, and motorists;

B. Ensure that all site lighting is designed and installed to maintain adequate lighting levels on site;

C. Provide security for persons and property.

§420-15.2. Applicability.

A. General. The provisions of this section shall apply to all development in the City unless exempted in accordance with this section.

B. Time of Review. Review for compliance with the standards of this section shall occur as part of the review of an application for a site plan, planned development, certificate of appropriateness, or certificate of zoning use, as appropriate by the Zoning Administrator.

C. Existing Development. Compliance with these standards, to the maximum extent practicable, shall also apply to redevelopment of an existing structure, building, or use when it is expanded, enlarged, or otherwise increased in intensity equivalent to or beyond 50 percent.

D. Exemptions. The following uses, activities and development are exempt from the exterior lighting standards of this section:

1. FAA-mandated lighting associated with a utility tower or airport;
2. Lighting associated with the United States flag, Virginia flag, or other non-commercial flags expressing constitutionally protected free speech;
3. Holiday lighting, provided the lighting does not create unsafe glare on street rights-of-way;
4. Security lighting controlled by sensors which provides illumination for fifteen (15) minutes or less;
5. Battery-powered emergency lighting;
6. Architectural lighting of 40 watts incandescent or less;
7. The replacement of an inoperable lamp or component which is in a fixture that was installed prior to the date of adoption of this section;
8. The replacement of a failed or damaged fixture which is one of a matching group serving a common purpose;
9. String lights; and
10. Gas lanterns.

§420-15.3. General Standards.

A. Hours of Illumination. Institutional uses, commercial uses, and industrial uses that are adjacent to existing residential development shall extinguish all exterior lighting, except lighting necessary for security or emergency purposes, within one hour after closing and shall not turn on such lights until within one hour of opening. For the purposes of this subsection, lighting necessary for security or emergency purposes shall be construed to mean the minimum amount of exterior

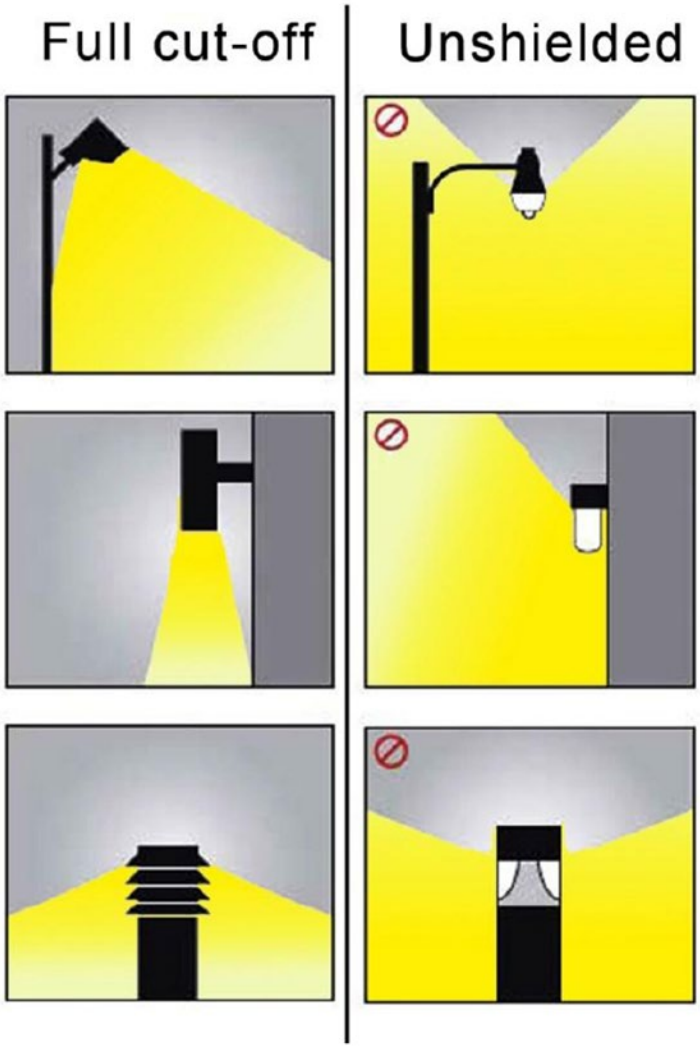
lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways, or to illuminate outdoor storage areas. Lighting activated by motion sensor devices is encouraged for these purposes.

B. Shielding. Except for single-family detached and duplex dwellings, all exterior light fixtures, including security lighting, shall consist of full cut-off fixtures, and be directed downward. The term full cut-off fixture means an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane.

C. Maximum Height. Except for athletic fields or performance areas, the height of outdoor lighting, whether mounted on poles, walls, or by other means, shall be no greater than 25 feet above grade.

D. Signage. Lighting for signage shall be governed by the standards set forth in the separate section of this zoning ordinance regulating signs.

Example of Full Cutoff Light Shielding:



§420-15.4. Lighting Plan.

To ensure compliance with the standards of this section, a lighting plan demonstrating how exterior lighting will comply with the standards of this section shall be included as part of any application requiring a site plan.

§420-15.5. Historic District Lighting.

For all properties located within the Historic Downtown Preservation District and subject to the review of the Architectural Review Board, lighting fixtures shall be reviewed as a component of any site plan or other alteration before a Certificate of Appropriateness is issued. The requirements of the applicable Historic Downtown Preservation District shall be applied in addition to the requirements of this section in the consideration of new or replacement lighting fixtures.

Article XVI. Nonconforming Uses.

§420-16.1. Continuation.

If, at the time of the enactment of this chapter or any subsequent amendment thereto, any legal activity is being pursued or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter, such manner of use or purpose may be continued as herein provided:

A. If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

B. If any nonconforming use, structure or activity is discontinued for a period exceeding two years after the enactment of this chapter or any amendment thereto, it shall be deemed abandoned, and any subsequent use shall conform to the requirements of this chapter.

C. A nonconforming structure, lot or use may be changed only to another use of a substantially similar character as the original use or to a more restrictive use.

D. Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such existing use may be changed only to an even more limited use.

E. When any nonconforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.

§420-16.2. Prior building permits.

The construction or use of a nonconforming building or land area for which a building permit was legally issued prior to the adoption or amendment of this chapter may proceed, provided that such building is completed within one year or such use of land established within 30 days after the effective date of this chapter.

§420-16.3. Certificate of occupancy required to exceed restrictions on number of individuals constituting a household unit.

All single-family dwellings which become nonconforming as a result of amendments to this chapter concerning the number of unrelated individuals who may constitute a household unit must apply for and be issued a certificate of occupancy within six months of the date of adoption of such amendments. Failure to obtain a certificate of occupancy shall invalidate any claim for nonconforming use status, and the dwelling will be required to conform to all applicable sections of this chapter.

§420-16.4. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

§420-16.5. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 20% of the current replacement value of the structure, provided that the cubic content of the structure, as it existed at the time of passage or amendment of this chapter, shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

§420-16.6. Extensions or enlargements.

A. A nonconforming structure shall not be extended or enlarged.

B. A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of passage or amendment of this chapter.

§420-16.7. Major restoration.

A. Except as otherwise provided in **§ 420-16.7D** below, if a nonconforming activity or structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 50% of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this chapter. However, structures which are nonconforming only because of inadequate street frontage or lot width may be reconstructed provided that a variance of yard and/or setback requirements, if required, is obtained from the Board of Zoning Appeals.

B. Except as otherwise provided in Section **§420-16.7D** below, where a conforming structure devoted to a nonconforming activity, or where a nonconforming structure, is damaged less than 50% of the cost of reconstructing the entire structure, either may be repaired or restored, provided that any such repair or restoration is started within 12 months and completed within 18 months from the date of such partial destruction.

C. The cost of land or any factor other than the cost of the structure shall be excluded in the determination of the cost of restoration for any structure or activity devoted to a nonconforming use.

D. If a nonconforming building or use is damaged or destroyed by fire, natural disaster or other act of God, such building may be repaired, rebuilt or replaced to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. Such building may also be repaired, rebuilt or replaced to its original nonconforming condition. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code. Any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local floodplain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired or rebuilt within two (2) years of the date of the natural disaster or replaced within two (2) years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of this ordinance. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the owner shall have an additional two (2) years for the building to be repaired, rebuilt or replaced as otherwise provided in this section. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this section.

§420-16.8. Nonconforming lots.

Any lot of record at the time of the adoption or amendment of this chapter which is less in area or in width than the minimum required by this chapter may be used or built upon, provided that a variance of yard and/or setback requirements, if required, is obtained from the Board of Zoning Appeals.

Article XVII. Amendments

§420-17.1 General procedure for proposed text amendments.

A. If, in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner or his agent to the Zoning Administrator for such use, the application shall be referred to the Planning Commission. The Planning Commission may hold a public hearing, as set forth in **§ 420-17.2**, and shall advise the governing body whether to:

1. Amend this chapter, making the use applied for a permitted use in that district;
2. Amend this chapter, making the use applied for a permitted use with a conditional use permit in that district;
3. Amend this chapter by rezoning, thereby allowing the use; or
4. Deny the use in that district.

B. If after 100 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports amending this chapter, and the City Council shall thereafter take any action it deems appropriate.

§420-17.2 Amendments.

A. Procedure. The regulations, restrictions and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by a majority of favorable votes of the City Council, subject to the following:

1. This chapter shall not be amended or reenacted unless the City Council has referred the proposed amendment or reenactment to the Planning Commission for its recommendations. Failure of the Commission to report 100 days after the first meeting of the Commission after the proposed amendment or reenactment has been referred to the Commission shall be deemed approval unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period.
2. Pursuant to Code of Virginia §15.2-2286.7, any amendment to this chapter may be initiated by:
    i. Resolution of the City Council
    ii. Resolution of the Planning Commission; or
    iii. Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment, addressed to the governing body or the local planning commission, who shall forward such petition to the governing body.
3. Public notice.
    i. In accordance with §15.2-2204 of the *Code of Virginia*, the Planning Commission shall not recommend nor shall the City Council adopt any plan, ordinance or amendment until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation

in the City, provided that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of a hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the proposed plans, ordinances or amendments may be examined. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice pursuant to §15.2-2204.

ii. The Planning Commission and City Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth above need be given only by the City Council. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

iii. When a proposed amendment of this chapter involves a change in the zoning classification of 25 or fewer parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved, to the owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected, and, if any portion of the affected property is within a planned unit development, then to such incorporated property owners' association within the planned unit development that has members owning property located within 2,000 feet of the affected property. Notice shall also be given to the owner, the owner's agent or the occupant of all abutting property and property immediately across the street from the property affected which lies in Rockbridge County. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed.

4. Individual property owners may petition the City Council to have their property rezoned by submitting their requests in writing, accompanied by payment of applicable fees to defray the cost of advertising and administration, to the Administrator. Action shall be taken on each such petition in conformity with the provisions of this section, including the requirements for public notice. Planning staff shall also place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.

5. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court

having jurisdiction of the land affected by the decision. Nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

§420-17.3. Conditional zoning.

A. Purpose. The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which unique, specific circumstances indicate that the existing zoning ordinance district regulations are not adequate. In these instances, reasonable conditions voluntarily proffered by the owner of the property to which the proffered conditions will be applicable for the protection of the community when combined with existing zoning ordinance district regulations would cause the requested rezoning to be compatible with existing zoning and land uses in the area.

B. Proffer of conditions. Any owner of property making application for a change in zoning or an amendment to the Zoning Map may, as part of the application, voluntarily proffer in writing reasonable conditions which shall apply to the subject property in addition to the regulations provided for in the zoning district sought in the rezoning application. Any such proffered conditions must be made prior to any public hearing before the City Council (including joint public hearings with the Planning Commission), be in accord with the procedures and standards contained in section 15.2-2297 of the Code of Virginia, and shall be subject to the following limitations:

1. The rezoning itself must give rise to the need for the conditions;
2. The conditions shall have a reasonable relation to the rezoning;
3. The conditions shall not include a cash contribution to the City;
4. The conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in Sec. 15.2-2241;
5. The conditions must not require the mandatory creation of a property owner's association under Chapter 26 Title 55 of the Code of Virginia;
6. No condition shall be proffered that is not related to the physical development or physical operation of the property The conditions must not include payment for, or construction of, off-site improvements except those provided for in Section 15.2-2241 of the Code of Virginia;
7. All conditions proffered shall relate to the physical development or operation of the property and
8. All such conditions shall be in accordance with the Comprehensive Plan.
9. The Council shall not be obligated to accept any or all of the conditions proffered by the owner.

C. Effect of conditions. Upon the approval of any such rezoning, all conditions proffered and accepted by the governing body shall be deemed a part thereof and non-severable therefrom and shall remain in force and effect until amended or varied by City Council. All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.

D. Zoning Map notation and records. Each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain a conditional zoning index which shall provide ready access to the ordinance creating such conditions and which shall be available for public inspection. The Zoning Administrator shall update the Index annually and no later than November 30 of each year.

E. Submittal requirements. Each application for rezoning which proposes proffered conditions to be applied to the property shall be accompanied by the following items beyond those required by conventional rezoning requests:

1. A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan.

2. A statement setting forth a maximum number of dwelling units or lots proposed, including density and open space calculations where applicable to any residential development, or a statement describing the types of uses proposed and the approximate square footage for each nonresidential development.

3. A statement detailing any special amenities that are proposed.

4. A statement of the public improvements both on and off site that are proposed for dedication and/or construction and an estimate of the date for providing such improvements.

5. A site plan listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions.

6. A statement setting forth the proposed approximate development schedule.

7. A signed statement by both the applicant and owner in the following form: "I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

F. Time period for conditional zoning authorization. A conditional zoning authorization shall expire 12 months after its adoption if a building permit has not been issued for the proffered development and construction initiated. A twelve-month extension to a conditional zoning authorization may be granted by the Planning Commission.

G. Procedural regulations and requirements. Proffered conditions shall include written statements, development plans and materials proffered in accordance with the provisions of this section and approved by the governing body in conjunction with the approval of an amendment to the Zoning Map. Upon approval, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in substantial conformance with all proffered conditions, and no development shall be approved by any City official in the absence of substantial conformance. For the purpose of this section, "substantial conformance" shall be defined as that conformance which leaves a reasonable margin for adjustment due to final engineering data but conforms to the general nature of the development, the specific uses and the general layout depicted by the plans and other materials presented by the applicant and/or the owner.

H. Enforcement and guarantees.

1. The Zoning Administrator shall be vested with all necessary authority on behalf of the City to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

    i. Ordering in writing of the remedy of any noncompliance with such conditions;

    ii. Bringing legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

    iii. Requiring a bond or other surety in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be released by the Zoning Administrator upon the submission of satisfactory evidence that the construction of such improvements has been completed in whole or in part.

2. Failure to meet all conditions shall cause the Zoning Administrator to deny the issuance of any required use, occupancy, or building permits as may be appropriate.

I. Petition for review of decision. Any zoning applicant or other person who is aggrieved by the decision of the Zoning Administrator under Subsection H of this section may petition the governing body for review of such decision. Any such appeal shall be filed within 30 days from the date of the action complained of and shall be instituted by filing with the Zoning Administrator and with the City Manager a notice of appeal specifying the grounds under which the petitioner is aggrieved. The Zoning Administrator shall transmit to the governing body all of the papers constituting the record upon which the action appealed from was taken, and the governing body shall proceed to hear the appeal at its next regularly scheduled meeting. An appeal shall stay all proceedings and furtherance of the action appealed from unless the Zoning Administrator certifies to the governing body, after the notice of appeal has been filed with him, that by reason of the fact stated in the certificate a stay will, in his opinion, cause imminent peril to life or property. In such case, the proceeding shall not be stayed otherwise than by a restraining order which may be granted by the governing body or by a court of record on application or notice to the Zoning Administrator and on due cause shown.

   Pursuant to Code of Virginia §15.2-2301, a decision by the governing body on an appeal taken in accordance with this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision. An aggrieved party may petition the circuit court for review of the decision of the City Council on an appeal taken pursuant to this section.

J. Any request by an applicant to amend or vary conditions that were voluntarily proffered and accepted by the City Council shall be reviewed and processed pursuant to Code of Virginia § 15.2-2302.

K. Time limit for reconsideration of applications. After the City Council has taken official action denying an application for conditional zoning or for an amendment to the approved conditions for a conditional zoning, no other application for substantially the same changes shall be again considered until 12 months from the date of such official action.

Article XVIII. Enforcement

§420-18.1.- Inspection Warrants.

The zoning administrator or his agent may make an affidavit under oath before a magistrate or circuit court, and if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court issue the zoning administrator or agent an inspection warrant to enter and inspect the subject dwelling. The zoning administrator or his agents shall make reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.

As authorized by Code of Virginia § 15.2-2286(4), whenever the Zoning Administrator has reasonable cause to believe that any person has engaged in or is engaging in any violation of a Zoning Ordinance that limits occupancy in a residential dwelling unit, which is subject to a civil penalty that may be imposed in accordance with the provisions of this chapter, and the Zoning Administrator, after a good faith effort to obtain the data or information necessary to determine whether a violation has occurred, has been unable to obtain such information, the Zoning Administrator may request that the City Attorney petition the judge of the general district court for a subpoena duces tecum against any such person refusing to produce such data or information. The judge of the court, upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued the subpoena to quash it.

§420-18.2. Notice of Zoning Violation.

A. Any person, whether the owner, lessee, principal, agent, employee or otherwise, who violates or fails to comply with any of the provisions or requirements of this zoning chapter including, but not limited to, provisions of the district regulations, proffers accepted by the council, or condition of approval imposed by the council, or the improvement, development or alteration of any site in violation of any plan approved pursuant to this article, shall be subject to the following:

   1. A civil penalty, as provided for in section 420-18.3.A; or

   2. Criminal penalties, as provided for in section 420-18.3.H, when:

      i. The amount of civil penalties for a series of violations arising from the same set of operative facts exceeds five thousand dollars ($5,000), or

      ii A violation results in injury to any person.

B. Upon becoming aware of any violation of the provisions of this chapter, the Administrator may issue written notice of such violation to the person committing or permitting the violations. Notice shall be mailed by registered or certified mail or hand delivered.

C. The notice of violation shall state the nature of the violation, date that it was observed, the remedy or remedies necessary to correct the violation and a reasonable time period for the correction of the violation.

D. Every written notice of violation of the Administrator shall include a statement informing the recipient that he or she may have a right to appeal the notice of zoning violation or written order

within 30 days in accordance with this section. The decision shall be final and unappealable if not appealed within 30 days.

E. If the recipient chooses to appeal, an appeal fee shall be submitted as established by a Council adopted Fee Schedule.

F. Appeals shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article **XIX** of this chapter.

§420-18.3. Penalties for violation of chapter.

A. Any person who violates or fails to comply with any of the provision or requirements of the Zoning Ordinance as described in section 420-18.2 shall be subject to a civil penalty of two hundred dollars ($200.00) for the initial summons or ticket, and a civil penalty of five hundred dollars ($500.00) for each additional summons or ticket arising from the same set of operative facts.

B. Upon becoming aware of any violation of the provisions of this chapter, the Administrator may proceed to issue a civil summons.

C. Any person summoned or issued a ticket for a violation may make an appearance in person or in writing by mail to the City Treasurer prior to the date set for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged after first agreeing in writing to abate or remedy the violation within a specified timeframe. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgement of court.

D. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law.

E. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court shall order the violator to abate or remedy the violation in compliance with this chapter. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period time as determined by the court, but not later than six (6) months of the date of admission of liability or finding of liability. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate offense punishable by an additional civil fine and any other penalties as ordered by the court.

F. Civil penalties are in lieu of criminal penalties. A violation enforced under this section shall be in lieu of any criminal penalty except as provided in section 420-18.2 and, except for any violation resulting in injury to any person, such a designation shall preclude the prosecution of the particular violation as a criminal misdemeanor. The remedies provided for in this section are otherwise cumulative and not exclusive and shall be in addition to any other remedies provided by law.

G. This section shall not be construed to allow the imposition of civil penalties for:

1. Activities related to land development where, for the purposes of this section, the term “land development” means a human-made change to, or construction on, the land surface including, but not limited to, land disturbing activity within the meaning of chapter 178 of the Code of the City of Lexington or the construction of buildings, structures or improvements

under an approved site plan or subdivision plat, but does not mean the land development project's compliance with this chapter; and

2. The violation of any provision of the Code of the City of Lexington relating to the posting of signs on public property or public rights-of-way.

H. Any person who violates or fails to comply with any of the provisions or requirements of the zoning chapter as set described in section 420-18.2 and:

1. The violation or failure to comply results in injury to any person, or

2. The violation or failure to comply occurs after the five thousand dollar ($5,000.00) maximum aggregate civil penalty provided in section 420-18.2 has been reached,

shall have committed a misdemeanor offense punishable by a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000). If the violation is uncorrected at the time of conviction, the court shall order the person convicted to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000.00), and any such failure during any succeeding ten (10) day period, punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand five hundred dollars ($1,500.00)

Article XIX. Board of Zoning Appeals

§420-19.1. Membership.

A. Composition; compensation and removal of members; vacancies. A Board consisting of five persons who are residents of the City shall be appointed by the Circuit Court of the county. The Board shall serve without pay other than for traveling expenses, and members shall be removable for cause upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

B. Terms; the terms of office shall be for five years and the term of one member shall expire each year.

C. Conflict of interests. Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.

D. Organization. The Board shall choose annually its own Chairman and its own Vice Chairman, who shall act in the absence of the Chairman.

E. Incumbent members. Members of the present Board of Zoning Appeals, duly appointed under the zoning ordinance in effect immediately preceding the enactment of this chapter, shall remain in office for the balance of the term for which each was originally appointed under the prior ordinance.

Editor's Note: For state law as to creation, membership and organization of boards of zoning appeals, see Code of Virginia, § 15.2-2308.

§420-19.2. Powers and duties.

A. The Board of Zoning Appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant hereto.

2. To authorize upon appeal in specific cases such variance from the terms of this chapter provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance ad the criteria set out in this section. A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would un reasonable restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and

    i. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

    ii. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

    iii. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

iv. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

v. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.

3. A variance shall be authorized only after a hearing, advertised according to § 15.2-2204, shall have been held.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

C. In exercising its powers, the Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the Zoning Administrator.

D. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

E. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

F. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

G. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Editor's Note: For state law as to powers and duties of Board of Zoning Appeals, see Code of Virginia, § 15.2- 2309.

§420-19.3. Organizational rules and procedures.

A. The Board shall adopt such rules and regulations as it may consider necessary.

B. Meetings of the Board shall be held at the call of its Chairman or at such time as a quorum of the Board may determine.

C. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.

D. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record.

E. All meetings of the Board shall be open to the public.

F. A quorum shall be at least three members.

G. A favorable vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter on which the Board is required to pass.

§420-19.4. Appeals and variances.

A. Generally. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to §15.2-2286. Such an appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator and with the Board a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

    1. Any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.

2. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and notice to the Administrator and for good cause shown.

Editor's Note: For state law as to appeals to zoning board, see Code of Virginia, § 15.2-2311.

B. Mailing procedure. Appeals shall be mailed to the Board, care of the Administrator. A copy shall be mailed to the individual, official, department or agency concerned, if any.

C. Hearing.

1. The Board shall fix a reasonable time for the hearing of an application or appeal and decide such appeal within 45 nights .

2. Public notice shall be provided as specified below and due notice given to the parties in interest:

i. Notice of the hearing shall be published once a week for two successive weeks in some newspaper published or having general circulation in the City. Such notice shall specify the time and place of the hearing at which persons may appear and present their views, not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the appeal or variance request may be examined. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

ii. For variance requests, planning staff shall give written notice to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice shall give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the public hearing. The list of property owners and the content of the notice shall be approved by the Zoning Administrator prior to mailing.

iii. For variance requests, planning staff shall also place a sign provided by the City on the subject property which indicates that this request is pending. This sign shall be located to be clearly visible from the street.

D. Decision. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. In any appeal, if a board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

E. Reapplication. No reapplication for a variance for the same or substantially the same application shall be considered by the governing body within a period of one year from its last consideration.

§420-19.5. Intent.

A. Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, board or bureau of the municipality, may present to the Circuit Court of the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.

B. Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made to serve upon the realtor's attorney, which shall not be less than 10 days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

C. The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

D. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report such evidence to the Court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

E. Costs shall not be allowed against the Board unless it shall appear to the Court that the Board acted in bad faith or with malice in making the decision appealed from.

Editor's Note: For state law as to appeals to decision of Board of Zoning Appeals, see Code of Virginia, § 15.2-23141.

Article XX. Definitions

§420-20.1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where terms are not defined, they shall have their ordinarily accepted meaning, or such as the context may imply.

Generally, the words "used for" include "designed for," and vice versa; the word "building" includes the word "structure"; the word "dwelling" includes the word "residence"; and the word "lot" includes the word "plot." Any words pertaining to gender shall be interchangeable. The word “he” shall mean “she,” and “she” shall mean “he.” The word “shall” is mandatory; the word “may” or should” is permissive.

Illustrations show only the form of defined signs. Dimensional standards are shown only in the text of this article.

ABANDONED MOTOR VEHICLE

A motor vehicle, trailer or semitrailer or part thereof that:

1. Weighs at least 75 pounds; and
2. a) Is left unattended on public property for more than 48 hours in violation of a state law or local ordinance; b) has remained for more than 48 hours on private property without the consent of the property’s owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property; or c) is left unattended on the shoulder of a primary highway.

ACCESS

A means of approach, including ingress and egress.

ACCESSORY BUILDING

A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes unless the accessory building is in compliance with the detached accessory dwelling unit use and design standards in Section 11.1.1.

ACCESSORY DWELLING UNIT - ATTACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

ACCESSORY DWELLING UNIT - DETACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

ACCESSORY USE OR STRUCTURE

A use or structure which is clearly subordinate and customarily incidental to the main use or structure that it is accessory to and located upon the same lot occupied by the main use or structure. Structures attached to the main building shall be considered part of the main building.

ACREAGE

A parcel of land, regardless of area, described by metes and bounds and not a lot shown on any recorded subdivision plat.

ACT OF NATURE

A natural event, not preventable by any human agency, such as flood, storms, or lightning. Forces of nature that no one has control over and therefore cannot be held accountable.

ADDITION

Any construction that increases the gross floor area of a building or structure, or results in an expanded footprint of a building or structure on the ground.

ADMINISTRATIVE OFFICIAL; ZONING ADMINISTRATOR

The official charged with the enforcement of this chapter, who shall be the City Manager or his designated agent.

AFFORDABLE HOUSING

Housing that is affordable to families with incomes at or below 80% of the area median income, provided that the occupant pays no more than 30% of his or her gross income for gross housing costs, including utilities.

AGENT

One who represents another, called the principal, in dealings with third persons. The agent undertakes some business by authority of the principal. The principal is the property owner.

AGGRIEVED PERSON

A person or group of people with an immediate, pecuniary and substantial interest in an action taken by the administrator or board of zoning appeals under this ordinance, as opposed to a remote or indirect interest. A person is also aggrieved if the person suffers a denial of some personal or property right or imposition of a burden or obligation different from that suffered by the public in general.

AGRICULTURE

The tilling of soil, raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, livestock and fowl keeping and breeding, and the production of natural products with resources primarily derived from the land upon which it is produced.

AGRICULTURAL OPERATION

Any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silvicultural activity.

ALL-WEATHER DRIVING SURFACE

Any material capable of supporting the weight of a large motor vehicle during any weather condition. Examples could include products such as Grasscrete and Geoblock; or, materials such as gravel, textured pavement, concrete or others as approved by the Zoning Administrator.

ALLEY

A minor right-o-way that is dedicated to public use and which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

ALTERATION

Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, or any enlargement or reduction of a building or structure, whether horizontally or vertically, or the moving of a building or a structure from one location to another.

AMATEUR RADIO TOWER

A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.

ANTENNA

Any exterior apparatus designed for commercial telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

APPLICANT

A property owner or their authorized representative who has petitioned the City for approval of a zoning change, zoning permit, building permit, variance, conditional use permit, site development plan, sign permit, certificate of appropriateness, or any other authorization for the use or development of their property under the requirements of this ordinance.

APPLICATION

An applicant petition for approval of a zoning change, zoning permit, building permit, variance, conditional use permit, site development plan, sign permit, certificate of appropriateness, or any other authorization for the use or development of their property under the requirements of this ordinance.

ARCHITECTURAL LIGHTING

Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion.

ASSEMBLY, PLACE OF

The use of land for a meeting place where persons gather together for purposes of attending civic, social, or religious functions, recreational events or entertainment performances on a regular or recurring basis including but not limited to, religious institutions, banquet facilities, funeral homes, theaters, conference centers, stadiums, and similar places, but excludes a Dance Hall as defined by this chapter. A gathering of less than 25 persons shall not be considered a Place of Assembly provided the gathering is accessory and incidental to the principal use.

AUTOMOBILE DEALERSHIP

The use of any building, land area or other premises for the display of new and used automobiles, trucks, vans, or motorcycles for sale, lease, or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use.

AUTOMOBILE RENTAL/LEASING

Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

AUTOMOBILE SERVICE STATION

A use which provides for the minor repair and/or maintenance of automobiles, but does not include towing service or body work. The retail sale and dispensing of motor fuels may be allowed as permitted within this chapter.

AVIATION FACILITY

Also referred to as an airport. Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

AWNING

A shelter constructed of rigid or non-rigid materials on a supporting framework, either freestanding, or projecting from and supported by an exterior wall of a building.

BANNER

A sign applied to cloth, paper, flexible plastic, or fabric of any kind and generally intended to be displayed on a temporary basis.

BASE FLOOD; ONE-HUNDRED-YEAR FLOOD

A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

BASEMENT

A portion of a building having part, but not more than 1/2, of its height below grade. A basement shall be counted as a story, for the purpose of height regulations, if it is subdivided and used for business purposes or for dwelling purposes.

BED-AND-BREAKFAST

A dwelling unit occupied by the owner that provides up to eight bedroom accommodations. Buildings being used as a bed-and-breakfast at the time of adoption of this chapter having more than five bedrooms and/or occupied by a resident manager rather than the owner may continue to operate with the same or a lesser number of bedrooms and/or may continue to be occupied by a resident manager rather than by the owner of the building.

BERM

A landscaped earthen mound, incorporated as part of a site design, and intended to enhance the compatibility of abutting or nearby properties through the mitigation of sound, the screening of views, and/or the visual enhancement of a property's landscaped character.

BEST MANAGEMENT PRACTICE (BMP)

Schedules of activities, or practices, including both structural and non-structural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land disturbing activities.

BIKEWAY

A bicycle pathway: either a bike lane, a bike trail, or bike route.

BOARD OF ZONING APPEALS

The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this chapter and to authorize, upon appeal, variances from the terms of this chapter when justified by special conditions.

BREWERY OR DISTILLERY

The use of land, licensed by the Commonwealth of Virginia, where beer or spirts are manufactured for sale. Breweries have a capacity greater than 1,000 barrels a year and distilleries have a capacity greater than 5,000 gallons a year. Consumption on the premises is permitted as an Accessory Use.

BUFFER YARD

A yard with screening and landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

BUILDING

Any structure having a roof supported by columns or walls, for the shelter, housing or enclosure of any individual, animal, activity, process, equipment, goods, or materials of any kind.

BUILDING FACE

Any one of the four principal exposures, front, sides or back, of a building. For purposes of sign regulations, the face of a building is that portion exposed to a street, alley or lot and is measured at ground level on a linear basis from exposed corner to exposed corner.

BUILDING HEIGHT

see *Height, building*.

BUILDING LINE OR SETBACK LINE

A line that establishes the area within which the principal building or structure must be erected or placed and which may be located by means of a plat of subdivision or site plan at a distance greater than, but in no case less than, the minimum setbacks or yard spaces required by the zoning ordinance.

BUILDING, PORTABLE

A structure that is build off site and moved to a lot for use as storage, office, or commercial purposes, and /or that does not have a concrete slab or perimeter footing. All portable buildings shall be anchored.

BUILDING, MAIN

A building in which the principal use of the lot on which it is situated is conducted. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

BUILDING OFFICIAL

The administrative official responsible for issuing building permits and enforcing the Building Code of the City of Lexington, Virginia

BUSINESS OR TRADE SCHOOL

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as an Educational facility, either primary and secondary, or college and university, or as a Home occupation.

BUSINESS SUPPORT SERVICE

Establishment or place of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

CABERET, ADULT

A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas for observation by patrons therein.

CALIPER

The diameter of a tree (usually nursery stock) measured at a point six (6) inches above the ground or top of root ball for up to and including four (4) inch caliper trees, and at a point 12 inches above the ground or top of root ball for larger sizes.

CANOPY

An overhead flat roof able to provide shade or shelter above a door from weather conditions that can be supported by stanchions or supported by the building.

CAR WASH

Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes

CATERING, COMMERICAL (OFF-PREMISES)

The use of land where food and/or beverages are prepared on the premises and delivered to another location for consumption.

CELLAR

see *Basement*.

CEMETERY

Any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

CEMETERY, PRIVATE

A place where human remains are interred above or below ground and where plots are not sold.

CENTRAL SEWAGE SYSTEM

Any system of collection and treatment of sewage, as defined by rules and regulations of the state board of health governing the disposal of sewage, serving two or more connections, whether the system is privately or publicly owned and operated.

CENTRAL WATER

Any water supply and distribution system, whether privately or publicly owned and operated, serving two or more individual connections.

CERTIFICATE OF OCCUPANCY

An official certificate issued by the City through the Building Official which indicates conformance with the zoning regulations and building codes and which authorizes legal use of the premises for which it is issued.

CHANNEL

A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

CITY COUNCIL

The governing body of the City of Lexington, Virginia.

CIVIC USE

Public parks and playgrounds, public schools, municipal buildings including police, fire and rescue facilities and all other publicly owned structures.

CLINIC

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors. The term, "clinic" includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

CLUB

A use providing educational, meeting, or social facilities for civic or social clubs, fraternal/sororal organization, and similar organizations and associations, primarily for use by members and guests.

Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A Club does not include a building in which members reside.

CLUSTER DEVELOPMENT

A development design technique that concentrates buildings on a part of a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive features.

CLUSTER SUBDIVISION

A development that may allow for a reduction in lot area and bulk requirements, and may provide for an increase in the number of lots permitted under a conventional subdivision (an increase in overall density of development), in proportion to the remaining land area that is devoted to open space.

CODE OF VIRGINIA

The Code of Virginia of 1950, as it may be amended from time to time. ("This Code", however, refers to the Code of the City of Lexington, Virginia.)

COMMERCIAL INDOOR AMUSEMENT

Establishments which provide multiple coin operated amusement or entertainment devices or machines as other than an incidental use of the premises. Such devices would include pinball machines, video games, and other games of skill or scoring, and would include pool and/or billiard tables, whether or not they are coin operated. Typical uses include game rooms, billiard and pool halls, and video arcades.

COMMERCIAL INDOOR ENTERTAINMENT

Predominantly spectator uses conducted within an enclosed building. Typical uses include, but are not limited to, motion picture theaters, and concert or music halls.

COMMERCIAL INDOOR SPORTS AND RECREATION

Predominantly participant uses conducted within an enclosed building. Typical uses include bowling alleys, ice and roller skating rinks, indoor racquetball, swimming, and/or tennis facilities.

COMMERCIAL OUTDOOR ENTERTAINMENT

Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

COMMERCIAL OUTDOOR SPORTS AND RECREATION

Predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, paintball facilities, and motorized model airplane flying facilities.

COMMERCIAL VEHICLE REPAIR SERVICE

Repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops and other similar uses where major repair activities are conducted.

COMMISSION

The City Planning Commission.

COMMON ELEMENTS

All portions of a cooperative other than the units.

COMMON AREA

A tract or parcel of land not devoted to residential uses or structures; but directly related to and adjunct to a planned development, cluster development or subdivision and which is owned and/or controlled by the residents of owners of such development.

COMMUNICATIONS SERVICE

Establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as Utility services, major or Broadcasting or communication towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

COMMUNICATION TOWER

A tower or antenna which supports communication (broadcasting and/or receiving) equipment utilized by commercial, government or other corporate, public and quasi-public users. Towers include radio, television, cellular telephone, personal communication services (PCS), microwave and other similar communications facilities, satellite earth station and building-supported. Communication towers may be self-supporting or guy-supported.

CONDOMINIUM

see *Dwelling, multi-family*.

CONSERVATION EASEMENT

The granting of a property's development rights to an agency that stipulates that the described land will remain in its natural state and precludes future or additional development.

CONSTRUCTION, NEW

For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM (Flood Insurance Rate Map) or after December 31, 1974, whichever is later, and includes any subsequent improvements of such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

CONSTRUCTION SALES AND SERVICE

Establishment or place of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

CONSTRUCTION SIGN

A temporary sign identifying an architect, developer, builder, general contractor, subcontractor, material supplier, and or financing entity participating in construction on the property on which the sign is located.

CONSTRUCTION, START OF

The date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

CONSTRUCTION YARD

Establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

CONSUMER REPAIR SERVICE

Establishment or place of business primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

CONVENIENCE STORE

see *Store, neighborhood convenience*.

COTTAGE

A single, permanent detached dwelling unit, which may or may not contain cooking and bathroom facilities, dedicated to temporary occupancy for purposes of recreation, education or vacation. Rental properties meeting the above description shall be considered cottages.

COTTAGE HOUSING DEVELOPMENT

An alternative type of detached housing providing small residences for smaller households, intended to encourage affordability, innovation and variety in housing design and site development while ensuring compatibility with existing neighborhoods.

COUNTRY CLUB

A land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

CULTURAL SERVICES

An establishment for the preservation of art, scientific, cultural or historical materials, music, or live theatrical or musical productions.

CURB CUT

Any interruption or break in the line of the street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property.

CUSTOM MANUFACTURING

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses, or a single kiln, with retail sales incidental to manufacturing

DANCE HALL

A place of assembly where dances, parties, receptions, and other gatherings are held for profit, except when sponsored by civic, charitable, or nonprofit groups.

DARK SKY LIGHTING

A term that refers to shielded light fixtures that cast light downward and generally conform to the specifications endorsed by the International Dark-Sky Association (IDA).

DAY CARE CENTER

Any facility operated for the purpose of providing care, protection and guidance to 13 or more individuals during only part of a twenty-four hour day. This term includes nursery schools, preschools, day care centers for individuals including adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour period.

DECK

A structure, without a roof, directly adjacent to a principal building, which has an average elevation of 30 inches or greater from finished grade. A deck may be constructed of any materials.

DEDICATION

The transfer of private property to public ownership upon written acceptance.

DEVELOPER

see *Applicant*.

DEVELOPMENT

Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DISTRICT

A district as referred to in § 15.2-2282 of the Code of Virginia.

DORMITORY

A building, or portion thereof, specifically designed for a long-term stay by students of a college, university, or nonprofit organizations including religious institutions for the purpose of providing rooms for sleeping purposes. One common kitchen and some common gathering rooms for social purposes may also be provided.

DRIVEWAY

A private road giving access from a public way to parking spaces on abutting lots.

DWELLING

Any building or portion thereof which is designed for use for residential purposes, except hotels, boardinghouses, lodging houses and motels.

DWELLING, MULTI-FAMILY

A building arranged or designed to be occupied by three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high rise apartments, apartments for elderly housing and condominiums.

DWELLING, SINGLE-FAMILY ATTACHED

Two or more single family dwellings sharing two or more common walls, each on its own individual lot. Attached dwellings are not vertically stacked.

Dwelling, Single-Family Attached

DWELLING, SINGLE-FAMILY DETACHED

A site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy, which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means

DWELLING, TOWNHOUSE

A grouping of three or more attached single-family dwellings in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

DWELLING, TWO-FAMILY

Also referred to as a duplex; The use of an individual lot for two dwelling units which share at least one common wall, each occupied by one family, that separates living space (i.e., living room, kitchen, bedroom, bathroom, etc.). Each dwelling unit may be vertically stacked. The exterior appearance of the whole resembles a single structure.

DWELLING UNIT

A room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

EASEMENT

A grant by a property owner of the use of land for a specified purpose.

EDUCATIONAL FACILITY, COLLEGE/UNIVERSITY

An educational institution authorized by the Commonwealth of Virginia to award associate, baccalaureate or higher degrees, and facilities associated with it. This term includes academic buildings, administrative facilities, dormitories, special housing, parking areas, dining halls and other physical plants associated with the college or university use.

EDUCATIONAL FACILITY, PRIMARY/SECONDARY

A public, private or parochial school offering instruction at the elementary, junior and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

ELECTRIC VEHICLE CHARGING STATION

An off-street or on-street parking space that has equipment installed for the purpose of charging the battery or other energy storage device of an electric vehicle or a plug-in hybrid electric vehicle.

EMERGENCY SHELTER

A facility promoting temporary housing for one or more individuals who are otherwise temporarily or permanently homeless.

ENTERTAINMENT ESTABLISHMENT, ADULT

Any adult cabaret, adult motion picture theater, or adult video-viewing or arcade booth, or adult bookstore; also referred to as a sexually oriented business.

EQUIPMENT SALES AND RENTAL

Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

ESTABLISHMENT

Any entity or individual conducting a business, profession, or trade; and any entity or individual conducting a civic, community service, or nonprofit activity.

FAA

The Federal Aviation Administration.

FAÇADE

An entire outside wall of a structure, including wall faces, parapets, fascia, windows, and doors, of one complete elevation.

FAIR MARKET VALUE

The price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

FAMILY

One or more persons related by blood, adoption or marriage, living or cooking together as a single housekeeping unit. The persons constituting a family may include foster children.

FAMILY HOME DAY CARE

A single-family dwelling in which more than four but less than 13 individuals, are received for care, protection and guidance during only part of a twenty-four-hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home shall not be counted towards this total. The care of 4 or fewer individuals for portions of a day shall be considered as a Home occupation.

FAMILY HEALTH CARE STRUCTURE, TEMPORARY

Pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person, or in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person and the other requires assistance with one or more activities of daily living as defined in §63.2-2200, as certified in writing by a physician licensed in the Commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.).

FARMER'S MARKET

Retail sale of fresh fruits and vegetables, and other food and related items, at a facility with spaces occupied by several different temporary tenants on a short term or daily basis; indoor or outdoor; but this term does not include roadside stands.

FENCE

A freestanding structure of metal, masonry, composition, vinyl or wood or any combination, resting on or partially buried in the ground and rising above ground level, with posts at regular intervals, and used for confinement, screening, or partition purposes.

FINANCIAL INSTITUTION

An establishment whose principal purpose is the provision of financial services, including but not limited to, an insured depository institution, a credit union, a Federal home loan bank, a small business investment company, a depository institution holding company, a mortgage lending business, or other institutions as defined by Federal code.

FLAG LOT

see *Lot, pipestem*.

FLOOD

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
    a. The overflow of inland waters.
    b. The unusual and rapid accumulation or runoff of surface waters from any source.
    c. Mud slides (i.e., mud flows) which are proximately caused by flooding as defined in Subsection (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) of this definition.

FLOODPLAIN

1. A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation.
2. An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

FLOOD-PRONE AREA

Any land area susceptible to being inundated by water from any source.

FLOODWAY

The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this chapter, the floodway shall be capable of accommodating a flood of one-hundred-year magnitude.

FLOOR AREA, GROSS

The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude basements and attics. The surface area of tennis

courts, swimming pools, driveways, surface parking spaces, decks, patios, and porches, is not included in the total gross floor area.

FLOOR AREA RATIO (FAR)

The ratio of gross floor area of all structures on a lot to total lot area.

FRATERNITY HOUSE AND SORORITY HOUSE, UNIVERSITY-ADMINISTRATED

A fraternity or sorority house owned and directly administered by the college or university with which it is affiliated.

FRONTAGE ROAD

A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

FULL CUTOFF LUMINAIRE

An outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal plane; also a type of dark sky lighting.

FUNERAL HOME

Establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

GARAGE, COMMERCIAL

see *Automobile service station* or *Commercial vehicle repair service*.

GARAGE, PRIVATE

An accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of 1½ times as many automobiles as there are dwelling units.

GARDEN CENTER

Establishments or places of business primarily engaged in retail sales from the premises including trees, shrubs, seeds, fertilizers, pesticides, plants and plant materials primarily for agricultural, residential and commercial consumers. Such establishments typically sell products purchased from others, but may sell material which they grow themselves.

GLARE

The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GOLF COURSE

A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par 3 golf courses. Specifically excluded would be independent driving ranges and any miniature golf course.

GOVERNING BODY

The Mayor and Council of the City.

GRADE

The lowest of:

1. Lowest elevation of the street at the curb;
2. Established or mean street elevation if curb not established;
3. Lowest elevation of finished ground surface on any side of the building or property.

GRANDFATHERED

A term referencing a use or structure that is not in conformance with the current ordinance but that was legal at the time it was established or constructed. Also referred to as a legally non-conforming use/structure.

GREENHOUSE

A building with transparent walls and roof; for the cultivation and exhibition of plants under controlled conditions.

GREENHOUSE, COMMERCIAL

A greenhouse operation in which plants are offered for sale to the public, either at wholesale or at retail.

GREENWAY

A corridor of open space managed for conservation, recreation and non-motorized transportation. Greenways often follow natural geographic features such as ridge lines, stream valleys, and rivers, but may also be built along canals, utility corridors, abandoned rail lines and the like. Greenways may include a trail or bike path or may be designed strictly for environmental or scenic protection.

GROSS PUBLIC FLOOR AREA

The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), plus aisles, hallways, and entryways serving such areas.

GROUP HOME

A licensed residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia §54.1-3401. Such facility shall be licensed by the Commonwealth of Virginia Department of Behavioral Health and Development Services, in order to qualify as a single family use.

GUESTROOM

A room which is intended, arranged or designed to be occupied, for more than 45 nights, by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking.

GUIDANCE SERVICES

A use providing counseling, guidance, recuperative, or similar services for persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar conditions for only part of a twenty-four-hour day.

HALFWAY HOUSE

An establishment providing accommodations, supervision, rehabilitation, counseling, and other guidance services to persons suffering from alcohol or drug addiction, to persons re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.

HAZARDOUS SUBSTANCE

A substance listed under United States Public Law 96-510, entitled the Comprehensive Environmental Response Compensation and Liability Act.

HEAVY EQUIPMENT SALES AND RENTAL

The use of land for the sale, lease, or rental of new or used Commercial Vehicles or trucks, trailers, construction equipment, agricultural implements or similar industrial equipment. Included in this use are the incidental storage, minor maintenance, and routine servicing of such equipment, but does not include a Junkyard as defined by this chapter.

HEIGHT

When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

HEIGHT, BUILDING

The vertical distance measured from the adjoining grade at the front entrance of the building or structure to the highest point of the structure. For corner lots, the building height shall be the average of the front height defined above and the building side height adjacent to the street. The building side

height shall be defined as the vertical distance measured from the lowest adjoining grade on the side adjacent to the street to the highest point of the structure.

Height, building

HEIGHT, STRUCTURE

The distance between the highest point of any structure, and the lowest grade adjacent to the structure.

HEIGHT, TREE

The measurement taken from the top of the root ball to the top of the trunk.

HISTORICAL AREA

An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the area, of such significance as to warrant conservation and preservation. An historic area is not currently in, or does not currently constitute, an historic district.

HISTORIC DISTRICT

A site, structure, landmark, one or more of them, or a group of them, which have unique architectural, historic, cultural, or archaeological importance to the county, the Commonwealth, or the nation, and which are designated on the official zoning map as constituting an historic district.

HISTORIC SITE

A building, place or area in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

HISTORIC STRUCTURE

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    a. By an approved state program as determined by the Secretary of the Interior; or
    b. Directly by the Secretary of the Interior in states without approved programs.

HOME FOR ADULTS

A dwelling unit providing a residence for the elderly with more than five (5) persons for purposes of providing special training, education, habilitation, rehabilitation, custodial care or supervision; provided that a licensed residential facility for eight (8) or fewer mentally ill, mentally retarded, or

developmentally disabled persons, with one or more resident counselors or other support staff, shall be considered a single-family residence.

HOME GARDENS

Gardens in residential districts for the production of vegetables, fruits and flowers generally for use or consumption by the occupants of the premises.

HOME OCCUPATION, CLASS A

An occupation conducted primarily on-site involving persons residing on the premises. Such occupations may require the use of accessory structures. No more than five clients or customers shall be allowed on the premises at any one time on a regular basis.

HOME OCCUPATION, CLASS B

An occupation conducted primarily on-site involving persons residing on the premises and not more than two (2) full or part-time outside employees. Such occupations may require the use of accessory structures or outside areas. No more than 10 clients or customers shall be allowed on the premises at any one time on a regular basis.

HOSPITAL

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis and including ancillary facilities for outpatient and emergency treatment diagnostic services, training, research, administration, and services to patients, employees, or visitors.

HOTEL

Also referred to as a motel or motor lodge; A building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day, week, or month. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms, and/or recreation facilities.

HOUSEHOLD UNIT

A family and/or a specified number of persons not related by blood, adoption or marriage living and cooking together as a single housekeeping unit.

INCENTIVE ZONING

The use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to: site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

INDUSTRIAL, LIGHT

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Use may include, but

are not limited to, a machine shop, the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, any other product of a similar nature.

INOPERABLE MOTOR VEHICLE

Inoperable motor vehicle means any one or more of the following: (a) any motor vehicle which is not in operating condition for a period of 60 days or longer; (b) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (c) any motor vehicle which for a period of 60 days or longer there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

INTERIOR PARKING LOT ISLAND

An island or planter that is surrounded on at least 3 sides by a parking lot or access road.

INVASIVE SPECIES

A plant, fungus, or animal species that is not native to a specific location (an introduced species), and which has a tendency to spread to a degree believed to cause damage to the environment, human economy or human health.

JUNKYARD

An establishment or place of business which is maintained, operated or used for storing, keeping, housing or buying junk or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

KENNEL

Any lot, building, structure, enclosure or premises where grooming, breeding, boarding, training or selling of animals is conducted as a business.

KIOSK

A small, free-standing, one story accessory structure having a maximum floor area of one hundred (100) square feet and used for retail purposes, such as automatic teller machines, or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 50 square feet.

LABORATORY

An establishment whose principal purpose is the research, compounding and/or packaging of scientific products, which may include light manufacturing.

LANDSCAPING

The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials, or by the alteration of the contours of the ground.

LAUNDRY, COMMERCIAL

Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

LIFE CARE FACILITY

A residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents. An Assisted Living facility would not be included in this definition.

LIGHT POLLUTION

Any adverse effect of man-made light including sky glow, glare, light trespass, light clutter, and decreased visibility at night.

LIGHT TRESPASS

Light sources casting excessive light upon adjacent property or upon a public right-of-way, also called light spillover.

LIQUOR

Any alcoholic beverage other than beer, wine, or cider, as those terms are defined in Virginia Code § 4.1-100 and 4.1-213.

LIQUOR STORE

Any privately owned store (i) licensed by the Commonwealth of Virginia to sell liquor for off-premises consumption, but excluding Breweries or Distilleries as defined by this chapter, and (ii) in which liquor makes up more than 10 percent of its stock in trade or occupies more than 10 percent of its net floor area.

LIVE-WORK DWELLING

A dwelling unit used for both dwelling purposes and any nonresidential use permitted in the zoning district in which the unit is located.

LOADING SPACE

An off-street space used for the delivery and loading/unloading of vehicles.

LOCATION

A lot, parcel, building site or tenant space.

LOT

A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions or as otherwise permitted by law.

LOT AREA

The total area, measure on a horizontal plane, included within lot lines. In residential zoning districts, lot area shall be defined as the area of the lot that excludes major utility easements (e.g. gas pipeline,

electric, etc.) and an area that lies within the 100-year flood plain (as it is established at the time of the final plat approval).

LOT, CORNER

A lot abutting on two or more streets at their intersection; of the two sides of a corner lot abutting streets, the front shall be deemed to be the shortest of the two sides abutting streets.

LOT DEPTH

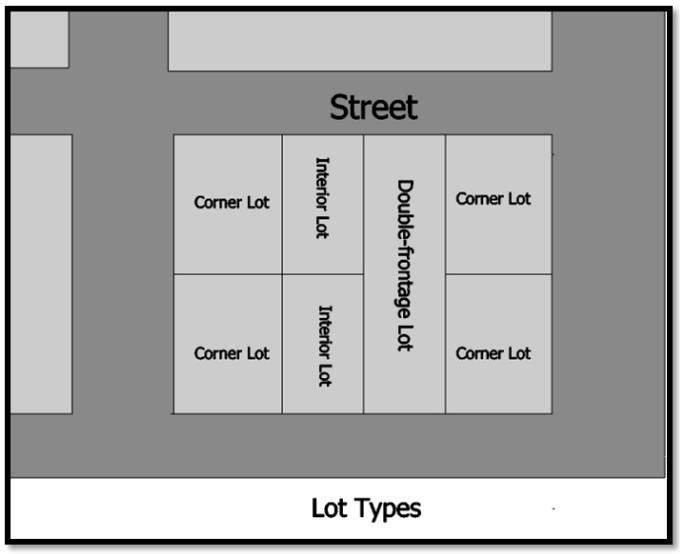
The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE-FRONTAGE

An interior lot having frontage on two streets.

LOT, INTERIOR

Any lot other than a corner lot.



LOT IRREGULAR

A lot of such a shape or configuration that technically meets the area, frontage and width to depth requirements of this ordinance but meets these requirements by incorporating unusual elongations, angles, curvilinear lines unrelated to topography or other natural land features.

LOT, LINE

Any line or curve in the boundary of a Lot.

LOT OF RECORD

A lot which has been recorded in the clerk's office of the circuit court.

LOT, PIPESTEM

A "panhandle" or "flag" shaped lot with its widest point set back from the road at the rear of another lot (called the pipe), and having a thin strip of land connecting to the road to provide legal access and frontage (called the stem). Pipestem lots are also referred to as panhandle lots or flag lots.

LOT WIDTH

The width of any lot at the setback line, calculated by measuring back a uniform distance from the street line as required by the setback regulation. If the street line curves or angles, the setback line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the curve or angle setback line.

MANUFACTURE; MANUFACTURING

The processing and/or converting of raw, unfinished materials or products into articles or substances of different character or for use for a different purpose.

MANUFACTURED HOME

A structure subject to federal regulations which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode or is 320 or more square feet when erected on site; is built on a permanent chassis; and is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required facilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. Some manufactured homes are also referred to as mobile homes.

MANUFACTURED HOME PARK

Also referred to as mobile home park or trailer park; Any area designed to accommodate two or more manufactured homes intended for residential use.

MEDIA, ADULT

Magazines, books, videotapes, movies, slides, CD-ROMs or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

MEDICAL CARE FACILITY

Any medical facility other than a Hospital or Nursing Home as defined by this chapter, which 1) contains office space for diagnostic or outpatient care along with associated medical facilities such as pharmacy, laboratory, physical therapy facility, or other similar facility, but does not provide inpatient hospitalization, 2) holds a Certificate of Public Need authorization from the Virginia Department of Health, 3) is licensed by or registered with the Virginia Department of Health, 4) is operated for the performance of surgical or other procedures where the patient is not capable of self-preservation during the procedure or recovery, or 5) is held out to the public as providing a level of service beyond that of a physician's or dentist's office.

MICRO-BREWERY

An establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer, with a capacity of not more than 1,000 barrels per year. Micro-brewery may include a restaurant or public tasting room as an accessory use.

MICRO-DISTILLERY

An establishment primarily engaged in distilling and blending potable liquors, including mixing them with other ingredients, with a capacity of not more than 5,000 gallons of finished product per year. A micro-distillery may include a restaurant or public tasting room as an accessory use.

MINI-WAREHOUSE

A multi-story building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

MIXED USE STRUCTURE

A building containing residential uses in addition to non-residential uses permitted in the zoning district. Mixed use structure should not be confused with a mix of uses each in separate structures in a single development.

MANUFACTURED HOME LOT

A lot within a manufactured home park for the use of a single manufactured home conforming to the special lot requirements of these regulations and having direct access to a street with the manufactured home park.

MODULAR HOME

A dwelling unit primarily manufactured off-site in accordance with the Virginia Uniform Statewide Building Code standards and transported to the building site for final assembly on a permanent foundation.

MULTI-ESTABLISHMENT BUILDING

A structure containing more than one establishment.

NATIONAL REGISTER OF HISTORIC PLACES

The official list, maintained by the National Park Service of the United States Department of the Interior, of historic resources considered by that agency to be worthy of preservation.

NONCONFORMING LOT

An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

NONCONFORMING SIGN

Any sign, the area, dimensions or location of which were lawful at the time the sign was erected, but which fail to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

NONCONFORMING STRUCTURE

An otherwise legal building or structure that does not conform to the lot area, yard, height, lot coverage or other area regulations of this chapter or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

NONCONFORMING USE

A use or activity which was legal when originally established, but that fails to conform to the current standards and regulations due to the adoption, revision or amendment of the subdivision ordinance.

NURSING HOME

A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

OCCUPANCY

The period during which one owns, rents, uses, or occupies a certain premises or land.

OCCUPANT

A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.

OFFICE, GENERAL

The use of land wherein the primary use is the conduct of a business or profession such as, but not limited to accounting, tax-preparation, lenders and securities brokers, architecture, computer software, or information systems research and development, engineering, insurance, law, management, organization and association offices, psychology, theology, real estate and travel. Retail Sales do not comprise more than an Accessory Use of the primary activity of a General Office. This definition does not include Medical Office as defined by this chapter.

OFFICE, MEDICAL

The use of a site for facilities which provide diagnoses, minor surgical care, and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. Emergency treatment is not the dominant type of care provided at this facility.

OFF-STREET PARKING AREA

Space provided for vehicular parking outside a dedicated street or accessway right-of-way.

OPEN SPACE

Any parcel of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Open space may include active recreational facilities such as swimming pools, play equipment, ball fields, court games, and picnic areas.

OPEN SPACE, COMMON

Land within or related to a development, not individually owned or dedicated for public use, which is intended for the common use or enjoyment of the residents of the development and may include such complementary structures as are necessary and appropriate. Common open space may include, recreation centers, swimming pools, tennis and basketball courts, and similar facilities.

OPEN SPACE, REQUIRED

Any space required in any front, side, or rear yard.

OUTDOOR DISPLAY

The permanent and/or continuous keeping, displaying, or storing, outside of a building, of any goods, materials, merchandise or equipment to be sold to the public.

OUTDOOR STORAGE

The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours.

PARCEL OR PARCEL OF LAND

A lot or parcel which is described by plat or other legal description.

PARKING FACILITY

A site for surface parking or a parking structure use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

PARKING LOT AREA

The square foot area of the parking spaces and aisles and interior parking lot islands, excluding access drives that do not have parking spaces within them.

PARKING SPACE, COMPACT

A space for parking one passenger automobile that is 16’ long and 8’ wide and is marked “Compact car.”

PARKING SPACE, NORMAL

An area not less than 10 feet wide by 20 feet long for an automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

PARKING STRUCTURE, MULTILEVEL

A structure with multiple stories designed for the parking of passenger vehicles and in which there is no provision for the repairing of vehicles.

PATIO

A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches from finished grade, and without walls or a roof. A patio may be constructed of any materials.

PAWN SHOP

A use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the incidental sale of such property.

PEDESTRIAN WAYS

Paved, marked or otherwise designated pedestrian treatments meeting AASHTO standards.

PERSON

An individual, firm, corporation, or association.

PERSONAL IMPROVEMENT SERVICES

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

PERSONAL SERVICES

Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; grooming of pets; seamstresses, tailors, or shoe repairs; florists; and laundromats and dry cleaning stations serving individuals and households.

PLAT

A map or plan of a parcel of land that is to be, or has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

PORCH

An area elevated above grade that adjoins an entry to a building that may be covered or open.

PORTABLE STORAGE CONTAINER

A large container, typically intended for transport by large truck, train, or ship, that is used for the temporary storage and or transport of personal property.

POSTAL OFFICE

Postal services directly available to the consumer operated by the United States Postal Service.

PORTICO

A roof structure over a walkway supported by columns or supported by the building.

PREMISES

see *Lot*.

PRESERVATION

The act or process of applying measures to sustain the existing form, integrity, and material of a site, structure, or landmark and their existing form and vegetative cover. Preservation may include initial stabilization work, where necessary, as well as ongoing maintenance of these elements.

PRINCIPAL BUILDING OR STRUCTURE

A building or structure in which the primary use of the lot on which the building is located is conducted.

PRINCIPAL USE

The main use of land or structures as distinguished from a secondary or accessory use.

PROPERTY

Any tract, lot, parcel or several of such tracts, lots or parcels collected together.

PUBLIC

Unless otherwise specifically indicated, public shall mean anything owned, operated, provided and/or maintained by a local, state, or federal government.

PUBLIC ASSEMBLY

Facilities that accommodate public assembly for sports, amusements, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, and incidental sales and exhibition facilities.

PUBLIC MAINTENANCE AND SERVICE FACILITY

A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment services centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

PUBLIC PARK AND RECREATIONAL AREA

Publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, game preserves, open spaces, and other similar uses. This shall not include Public recreation assembly.

PUBLIC PARKING

Any area used primarily or regularly for parking motor vehicles; or to any parking space or area required to be provided by any law; except for parking provided solely to reserve a single-family dwelling.

PUBLIC RECREATION ASSEMBLY

Publicly-owned and operated community, civic, or recreation centers, year-round swimming facilities, or indoor performing arts/auditoriums.

PUBLIC USE

Any use for exclusively public purposes without reference to the ownership or structures or the realty upon which it is situated by any department or branch of the federal government, commonwealth, county or town.

PUBLIC UTILITY

Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing, under federal, state or municipal regulations, to the public electricity, gas, steam, communications, telegraph, transportation or water.

RECONSTRUCTION

Any work needed to remake or rebuild a part of any Building to a sound condition, but not necessarily using original materials.

RECREATION, ACTIVE

Those recreational pursuits which require physical alteration to the area in which they are performed including, but not limited to, pedestrian ways, bikeways, tennis courts, swimming and boating areas, playgrounds, and play fields.

RECREATION, PASSIVE

Recreational activities that generally do not require a developed site such as hiking, horseback riding, and picnicking.

RECREATION FACILITY, PRIVATE

A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

RECREATION FACILITY, PUBLIC

Publicly owned or operated recreation facilities.

RECREATIONAL VEHICLE

A vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

RECYCLING CENTER

A facility used by the general public for the collection of materials for recycling or reuse, including bins, boxes, buildings, self-propelled motor vehicles, trailers and other enclosures or receptacles. Except for City or other governmental sponsored programs to collect and/or recycle household hazardous wastes, this definition shall not include facilities for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances or similar materials.

REFUSE COLLECTION SITE

Facility for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances or similar materials.

RELIGIOUS ASSEMBLY

A use located in a permanent building and providing regular organized religious worship and related incidental activities, except primary or secondary schools and day care facilities.

REPLACEMENT COST

The cost of restoring a damaged building or structure to its original condition. Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the County Assessor to determine the percentage of the cost of improvements.

RESEARCH AND DEVELOPMENT

A business which engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

RESIDENTIAL DENSITY

A measure of dwelling units per acre. The number of units shall be rounded up to the next whole unit (e.g. a 5.2 unit/acre average would be counted as 6 units/acre).

RESTAURANT

Any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafeterias, cafes, tearooms, confectionery shops, refreshment stands and drive-ins.

RESTAURANT, DRIVE-IN

An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter and a drive-up or drive through service facility, or which offers curb service

RESTAURANT, GENERAL

An establishment engaged in the preparation of food and beverages containing more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers.

RESTAURANT, MOBILE

A readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, serving, and/or selling of food and operated at temporary locations. This definition shall include food trucks, food trailers, and food carts and shall not apply to ice cream trucks.

RESTAURANT, SMALL

An establishment engaged in the preparation of food and beverages containing no more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers. Typical uses include cafes, coffee shops, and eat-in delis.

RIGHT-OF-WAY

A legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

ROAD

see *Street*.

SALVAGE AND SCRAP SERVICE

Place of business primarily engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses included paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobiles parts and supplies.

SAWMILL, TEMPORARY

A portable sawmill located on private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto, or incidental processing of timber transported from other property.

SCHOOL, PRIVATE

Any building or group of buildings the use of which meets state requirements for elementary, secondary or higher education and which use does not secure the major part of its funding from any governmental agency.

SCREENING

A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation. Screening is intended to substantially, but not necessarily totally, obscure visual impacts between adjoining uses.

SERVICE BAY

An enclosed or partially enclosed area where motor vehicles are parked while they are serviced or repaired.

SERVICE STALL

A non-enclosed area where motor vehicles are parked while they are serviced or repaired, which may be covered but not enclosed by walls or doors.

SETBACK

The minimum distance by which any building or structure must be separated from the front lot line.

SETBACK LINE

see *Building Line*.

SHELTER

A facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

SHOPPING CENTER

A group of commercial establishments planned, constructed and managed as a total entity with shared access, customer and employee parking provided onsite, provision of goods delivery separated from customer access, aesthetic considerations and protection from the elements.

SHOOTING RANGE, INDOOR

The use of a structure for archery or firearms for the purposes of target practice or competitions.

SHORT TERM RESIDENTIAL RENTAL

A residential dwelling unit that is used or advertised for rent for transient occupancy in increments of fewer than 30 consecutive days. This use type does not include bed-and-breakfast establishments.

SHRUB

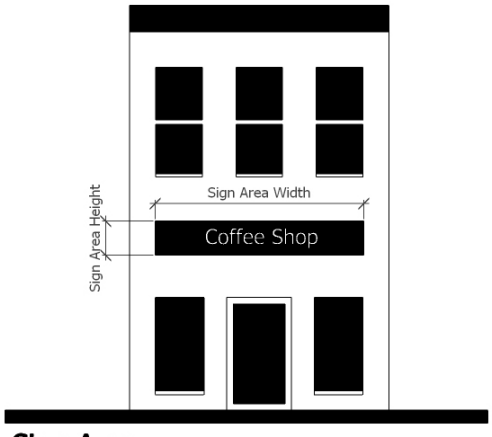
A woody plant producing multiple shoots or stems from the base height, with a total height of 15 feet or less. Also, when used to meet the landscaping criteria of the zoning ordinance, a perennial planting that, at the time of planting, has a minimum height of two (2) feet measured from the ground elevation after planting.

SIGN

A display designed or intended to convey information to the public in written or pictorial form where such display is made on, attached to, or as part of a structure, surface, or any other thing, including but not limited to the ground, any rock, tree or other natural object which display is visible beyond the boundaries of the parcel of land on which it is made. The term shall not be construed to include any display of merchandise or temporary signage displayed within a show window. A display of less than one square foot in area is excluded from this definition.

SIGN AREA

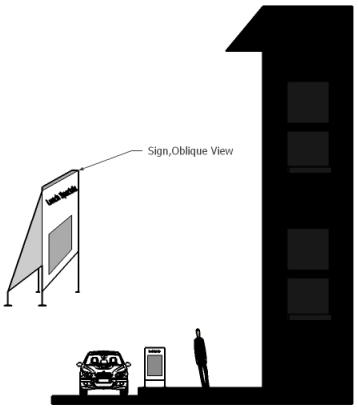
The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure. Sign area is calculated by standard mathematical formulas such as height times width for rectilinear signs, πr^2 for circular signs, and the applicable standard mathematical formula for other geometrical shapes.



Sign Area

SIGN, A-FRAME

A temporary, portable sign used at a place of business to provide information to pedestrians and slow moving vehicles. The sign may be one or two sided.



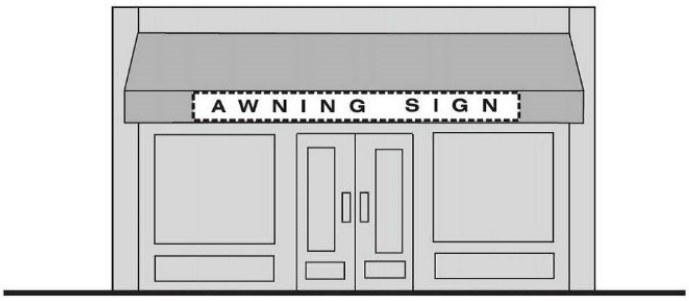
A-Frame Sign

SIGN, ANIMATED

A sign which changes physical position or involves the use of motion, rotation, or the appearance of motion.

SIGN, AWNING

A sign placed directly on or attached to the valance of an awning.



SIGN, BANNER

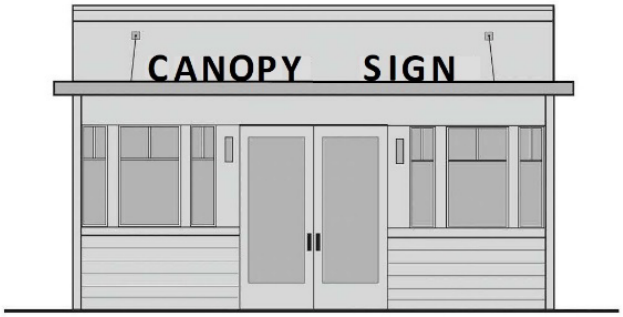
A temporary sign made of cloth, paper, vinyl or like material attached to a wall so as to remain in a generally stationary position.

SIGN, BILLBOARD

see *Sign, Off-premises*.

SIGN, CANOPY.

A sign placed directly on or attached to the top of a canopy. A canopy sign cannot be attached to an awning, vehicle fueling station canopy, or pitched roof structure.



SIGN, CHANGABLE

A sign or part of a sign that is designed so that characters, letters or illustrations can be mechanically or physically changed or rearranged without altering the face or surface of the sign.

SIGN, DOUBLE-FACED

A sign with two parallel or nearly parallel faces, back to back, upon which advertising is displayed.

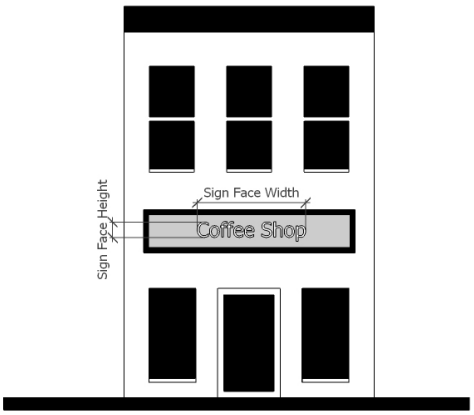
Double-Faced Sign

SIGN, ELECTRONIC MESSAGE BOARD

Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

SIGN FACE

The area or display surface used for the message, not including any framing, trim or molding, or the support structure. Face area is calculated using the same mathematical formulas as for sign areas.



Sign Face

SIGN, FLAG

Cloth or similar flexible fabric attached to a pole at one end such that the material can bend or flutter from the point (s) of attachment.

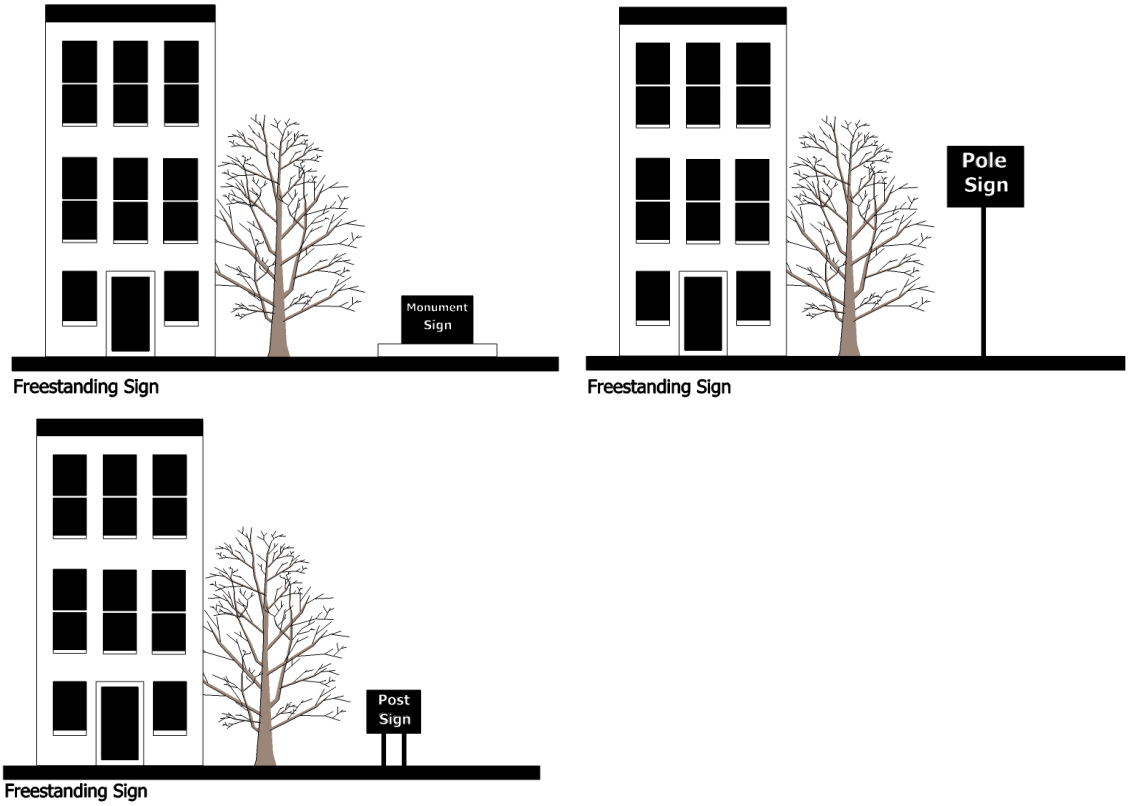
Flag Sign

SIGN, FLASHING

Any illuminated sign on which there is artificial light which is not stationary or constant in intensity or color at all times when such sign is in use.

SIGN, FREESTANDING

Sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure, or a monument form without separate supporting elements.



SIGN, GOVERNMENT

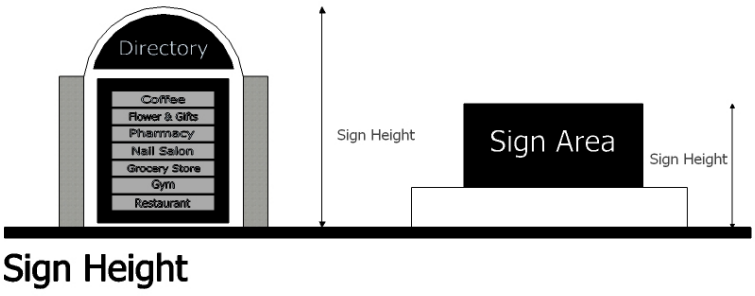
Government signs that are approved by the city council or installed for the public benefit by the City of Lexington.

SIGN, HANGING

see *Sign, Projecting.*

SIGN HEIGHT

Distance measured in feet and inches from the ground below the sign to highest point of sign to include sign structure, or in the case of wall signs on upper floors, from the floor level immediately below the sign to the highest point of the sign. Artificially increasing the height of the sign by berming or mounding dirt or other material at the sign base is prohibited.



SIGN, ILLUMINATED

A sign illuminated in any manner by an artificial light source, whether internally or externally lit. Externally illuminated signs are those that have a light source projecting onto the face of the sign either by downlighting or indirectly with fluorescent, halogen or a source that gives off natural white light. Internally illuminated signs are those that have a light source inside or behind the sign structure or sign face which projects lights through or from the sign face.

SIGN, INDIVIDUAL LETTER

A sign made up of letters only that are attached directly to the building.

Individual Letter Sign

SIGN, INFALTABLE

Any display capable of being expanded by air or other gas and used on a temporary or permanent basis to advertise a product or event.

SIGN, MINOR

A wall or freestanding sign not exceeding one (1) square foot in area, not exceeding four feet in height, and not illuminated. Examples include no trespassing signs, displays of building address, security warning signs, on-site directional signs, and the like.

SIGN, MOBILE BILLBOARD

An off-site advertising sign mounted on a vehicle or trailer that can become part of traffic flow or be parked at specific locations. Neither vehicles nor trailers which advertise the company of their primary use nor campaign signs are considered mobile billboards.

SIGN, MOVING OR ROTATING

An environmentally activated sign or other display with mechanical motion powered by natural, manual, mechanical, electrical or other means, including but not limited to pennant strings, streamers, spinners, propellers, and search lights. Hand held signs are not included; see Portable Sign.

SIGN, OFF-PREMISE

Any sign, including billboards, which directs attention to a business, commodity, service or establishment conducted, sold or offered at a location other than the premises on which the sign is erected.

SIGN, PAINTED

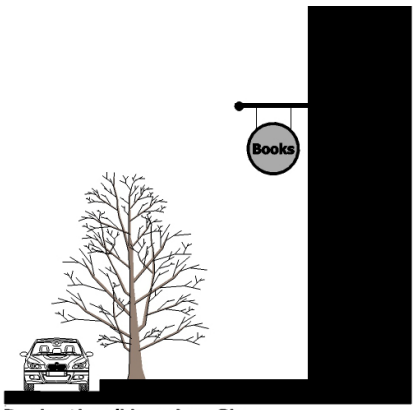
Any sign painted on the exterior surface of a building; includes a mural sign.

SIGN, PORTABLE

Any sign not permanently affixed to a building, structure, or the ground. This category includes, but is not limited to, signs attached to or placed on vehicles not used for the daily conduct of the business, banners, balloons, and similar devices used to attract attention, including hand held signs.

SIGN, PROJECTING

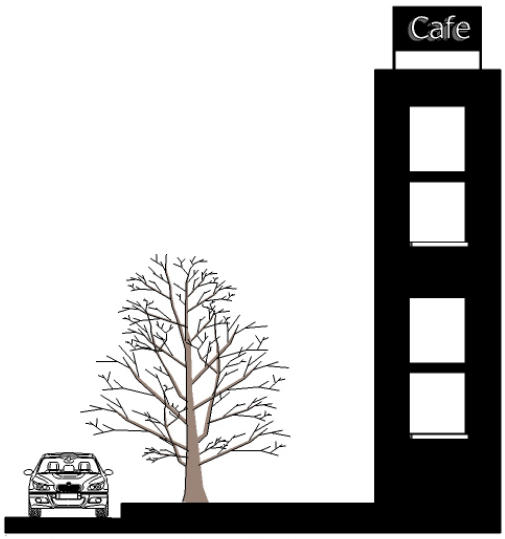
A sign attached to a building, approximately perpendicular to the building wall, and projecting up to 4 feet from the building wall; also Hanging Sign.



Projecting/Hanging Sign

SIGN, ROOF

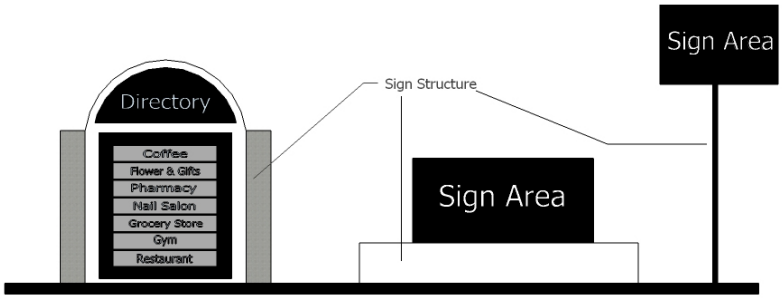
Any sign erected, constructed, and maintained wholly upon or over the roof of any building (such signs are not permitted under this ordinance).



Roof Sign (Not Permitted)

SIGN STRUCTURE

Sign structure includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, V-type, or otherwise exhibiting sign.



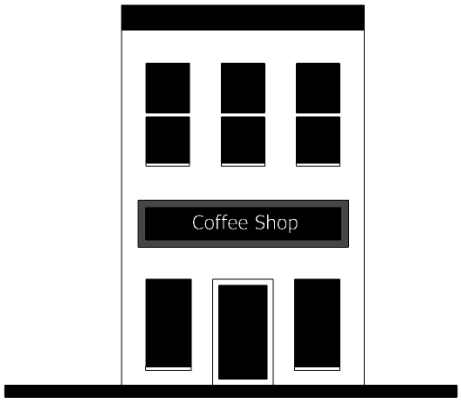
Sign Structure

SIGN, TEMPORARY

A sign designed or intended, based on materials and structural components, to be displayed for a specified or limited period of time, regardless of type or style of sign. Examples include real estate signs, yard sale signs, contractor's signs, and special or one-time event signs per year.

SIGN, WALL

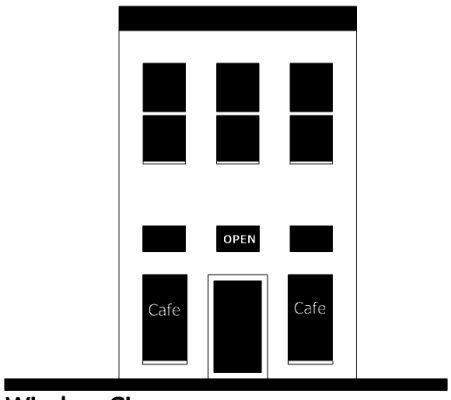
Any signs or lettering, projecting not more than eight inches, which are placed against or attached to the front, rear, or side wall of a building, but shall not be painted or mural signs, or roof signs as defined herein.



Wall Sign

SIGN, WINDOW

A sign painted, stenciled, or affixed on a window.



Window Sign

SITE PLAN

A plan prepared by a professional engineer or land surveyor licensed by the state showing all proposed improvements to the site in accordance with this chapter.

SPECIAL USE

A special use exception or yard, area or height exception specifically listed in this chapter which may be permitted by the board of zoning appeals in a specified district or in all districts in accordance with the provisions of this chapter.

SPECIALTY FOOD SHOP

The use of land, such as a coffee, candy, or ice cream shop, where the primary client consumption is off-site with limited seating and the product is limited to one type or line of food service and the food preparation is such that all odors must be contained within the establishment and specialized equipment may be required to contain the odors.

SPECIALTY SHOP

A small-scale (less than 2,500 square feet per business) retail use which offers for sale items of art or crafts, or which offers for sale items related to a specific theme, e.g., kitchen wares, pet care, etc.

SPECIFIED ANATOMICAL AREAS

1. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered

SPECIFIED SEXUAL ACTIVITIES

Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SQUARE FEET, GROSS

All enclosed, usable space within a structure, including unfinished service areas such as stairwells and elevators.

SQUARE FEET, NET

All enclosed, usable finished space within a structure, not including unfinished service areas such as stairwells and elevators.

STATE ROAD

A street or roadway that is part of the Virginia State Highway System or Secondary Highway System.

STORAGE YARD

An area used or intended for the storage of materials, refuse, or vehicles and equipment not in service. Storage yards shall not incorporate any other areas of project development such as parking areas, landscaping, and yard areas.

STORE

Retail stores and shops.

STORE, ADULT

An establishment that: offers for sale or rent items from any of the following categories: (a) adult media, (b) sexually oriented goods, or (c) goods marketed or presented in a context to suggest their use for specified sexual activities; and the combination of such items constitutes more than 15 percent of its stock in trade or occupies more than 15 percent of its gross public floor area; and where there is no on-site consumption of the goods, media or performances for sale or rent.

STORE, GENERAL

Buildings for display and sale of merchandise at retail.

STORE, GROCERY

A retail business primarily engaged in the sale of unprepared food for personal or household preparation and consumption. Such a facility may also engage in incidental sales of prepared foods for personal consumption on-or off-site.

STORE, NEIGHBORHOOD CONVENIENCE

Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

STORY

That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between the floor and the ceiling next above it.

STORY, HALF

A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than five feet above the top floor level.

STREET

A dedicated strip of land or right-of-way subject to vehicular or pedestrian traffic providing means of access to property.

STREETSCAPE

The combination of Buildings, uses, Landscaping, and furniture located in the area that may either abut or be contained within a public or private street right-of way or access way that create the visual image of the street.

STREET LINE

The dividing line between a street or road right-of-way and the contiguous property.

STREET, PRIVATELY MAINTAINED

Any roadway that is restricted as to the hours of access by the general public or by those who may use it. The definition shall be construed to include public roads that are maintained by the individuals living along or otherwise served by the road or by a property owners association created for purposes including maintenance of streets.

STREET, PUBLIC

A street which affords principal means of access to abutting property, and encompassed by a right-of-way dedicated to public use and maintained by the Commonwealth as a part of the state primary or secondary road system. The right-of-way shall not be less than 50 feet.

STREET, SERVICE DRIVE

also referred to as a Frontage road; A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by controlling ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

STRING LIGHTS

Light sources connected by free-strung wires or inside of tubing resulting in several or many points of light that are unshielded or partly shielded light sources.

STRUCTURE, PERMANENT

Anything constructed or erected the use of which requires more or less permanent location on the ground, or which is attached to something having a permanent location on the ground, including advertising signs and billboards.

STUCTURE, TEMPORARY

Anything constructed or erected without a permanent foundation or footings and that extends eight inches or more above the adjacent yard surfaces, but excluding a Manufactured Home as defined by this chapter.

STUDIO, FINE ARTS

A building, or portion thereof, used as a place of work by a sculptor, artist, or photographer; or used as a place to exhibit and offer for sale works of the visual arts (other than film).

SUBDIVIDER

Any person owning any parcel of land to be subdivided, or a group of two or more persons owning parcel of land to be subdivided, or a person or group of persons who has given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, representing or executing the legal requirements of the subdivision.

SUBDIVISION

To divide any tract, parcel or lot of land into two (2) or more parts for the purpose of transfer of ownership or building development.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition, or other improvement of a structure the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

   or

2. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

SUBSTANTIAL RENOVATION/REHABILITATION

Improvements, not primarily cosmetic in nature, whose cost should equal at least 25% of the value of the structure after the renovation/rehabilitation is completed.

SURPLUS SALES

Businesses engaged in the sale of used or new items, involving regular or periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets, or discount businesses with outdoor display.

SURVEYOR

A certified land surveyor licensed by the Commonwealth of Virginia.

TATTOO PARLOR AND/OR BODY PIERCING SALON

Any business that provides tattooing or body-piercing as those terms are defined in Virginia Code § 54.1-700, or both tattooing and body-piercing.

TELECOMMUNICATION TOWER

See *Broadcasting or communication tower*.

TOWER HEIGHT

The distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

TOWNHOUSE

see *Dwelling, Townhouse*.

TOWNHOUSE DEVELOPMENT

One or more single-family dwellings containing townhouses, with accessory parking, open space and recreational and management facilities.

TRAILER, TRAVEL

see *Recreational vehicle*.

USE

The purpose or activity for which land or buildings thereon are designed, arranged or intended, or for which they are occupied or maintained, and any manner of performance of such activity with respect to the performance standards of this chapter.

UTILITY SERVICE, MAJOR

Service of a regional nature which normally entails the construction of new buildings or structures such as generating plants and sources, electrical switching facilities and stations or substations, community waste water treatment plants, and similar facilities. Included in this definition are also electric, gas, and other utility transmission lines of a regional nature which are not otherwise reviewed and approved by the Virginia State Corporation Commission. All overhead service, distribution and transmission lines are included in this definition.

UTILITY SERVICE, MINOR

Service which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are small facilities such as transformers, relay and booster devices, and well, water and sewer pump stations.

VARIANCE

A relaxation of the terms of this chapter where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of a structure or size of yards and open spaces; the establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

VDOT

The Virginia Department of Transportation.

VEGETATIVE BUFFER

Deciduous and evergreen plants, shrubs, or trees that are mature enough to act as an effective visual and audible buffer.

VEGETATIVE FILTER STRIP

Perennial vegetation established or left undisturbed adjacent to the shoreline of a watercourse intended to filter out sediment and other non-point source pollutants from runoff before it reaches a watercourse.

VEHICLE FUELING STATION

An establishment engaged in the retail sale of motor vehicle fuel that is stored and/or dispensed on-site, such as gasoline, diesel fuel, natural gas, hydrogen, and electricity. Accessory uses may include a convenience retail store, and light vehicle repair and maintenance.

VETERINARY HOSPITAL/CLINIC

Any establishment rendering surgical and medical treatment of animals. Boarding of domestic animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel. Agricultural livestock such as horses and cows may be boarded outdoors as appropriate.

VIDEO-VIEWING BOOTH OR ARCADE BOOTH, ADULT

An enclosure designed for occupancy by no more than five persons, used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media, or live performances or lingerie modeling, for observation by patrons therein.

VIRGINIA LANDMARKS REGISTER

The official list, maintained by the Department of Historic Resources, of historic resources considered by the Board of Historic Resources to be worthy of historic preservation.

WAREHOUSING

An operation from a structure, or part of a structure, for storing goods, wares, commodities and merchandise, whether for the owner thereof or for others, and whether it is a public or private warehousing operation, but excluding mini-warehouse.

WETLANDS

Waters of the United States, including land where, at least some of the time, water saturates the soil enough to result in a hydric soil (soil that is characterized by an absence of free oxygen some or all of the time). Wetlands limits must be determined in accordance with the current federally approved method of delineation.

WHOLESALE SALES

An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

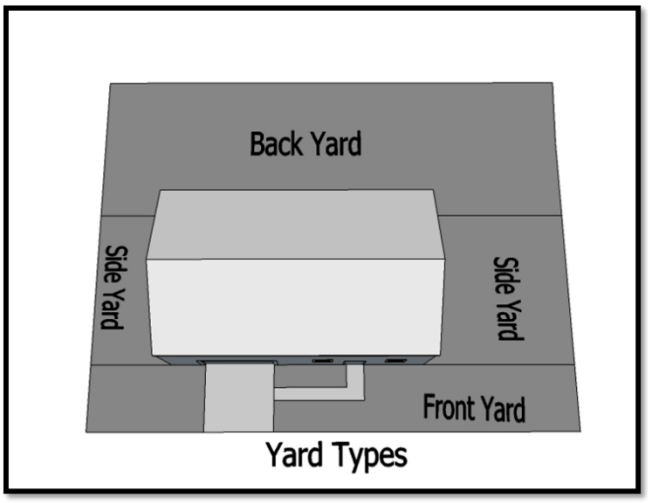
WINERY

A winery use is a facility licensed in accordance with § 4.1-207 VA Code Ann. and regulations of the Board of Alcoholic Beverage Control to manufacture wine and to sell, and deliver or ship such wine in closed containers for the purpose of resale outside the state or by persons licensed by the state to sell the wine at wholesale. The use may include the licensed operation of distilling equipment on the premises to manufacture spirits from fruit or fruit juices only, where used solely to fortify wine produced by the winery. This use does not include a farm winery.

YARD

An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

1. Front yard - An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.
2. Rear yard - An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.
3. Side yard - An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.



ZONING ADMINISTRATOR

The administrative official, or an authorized agent thereof, responsible for administering and enforcing the Zoning Ordinance of the City of Lexington, Virginia, also referred to in this ordinance as the Administrator.

ZONING PERMIT

A document issued by the zoning administrator authorizing the use of lots, structures, lots and structures, and the characteristics of uses.

Editor's Note: See Code of Virginia, §§ 15.2-2280 and 15.2-2281.